

## PREFACE.

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THIS, the fourth edition of the Madras Code, consisting of two volumes, has been prepared on the same lines as the last edition and contains the unrepealed Regulations and Acts of the Governor of Fort St. George in Council, and the Local Acts of the Governor General in Council and Regulations under the Government of India Act, 1870 (33 Vict., c. 3), in force in Madras, respectively. The Acts and Regulations are printed in chronological order.

2. Enactments of the Governor of Fort St. George in Council which are only in force in the Scheduled Districts of the Madras Presidency have not been printed *in extenso*, and Acts of a private nature applying to Madras, such as Act XXXVII of 1858, and Madras Acts VI of 1869, and III of 1911, have not been included in the Code.

3. A complete Chronological Table has been prefixed to each volume showing how the enactments printed in both volumes have been affected by later legislation and a concise Index to the whole code has been appended to the second volume. As in the last edition the Appendix to the second volume contains notifications, rules and orders issued under the Scheduled Districts Act, 1874, and the Ganjam and Vizagapatam Act, 1839.

4. The revision of the Code and the preparation of the present edition for the Press was undertaken by Rai Bahadur Dr. S. C. Banerjee, D.L., late Legal Assistant, Legislative Department, who brought it down to the year 1912 when its publication was postponed. The opportunity has since been taken to bring the edition down to the end of the year 1914.

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SIMLA :

*The 16th August 1915.*

# CHRONOLOGICAL TABLE.

## PART I.—UNREPEALED REGULATIONS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

NOTE.—(a) Enactments which are only in force in the Scheduled Districts in Madras are noted below in italics.

(b) Where an enactment has been repealed in part, and the residue has been subsequently repealed, the latter repeal only has been noted.

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1802	III	The Madras Administration of Estates Regulation, 1802.	Rep. in part, Mad. Reg. V of 1829, s. 2; Act X of 1861; " XVII of 1862; " III of 1873; " XVI of 1874; " XII of 1876; " XI of 1901. " Mad. Act V of 1867; " Mad. Act II of 1869.	1
"	XIX	The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802.	Rep. in part, Act XI of 1901; Mad. Act II of 1869.	4
"	XXV	The Madras Permanent Settlement Regulation, 1802.	Rep. in part, Mad. Act II of 1869. S. 11 rep. (locally when notified), Mad. Act II of 1894, s. 3.	5
"	XXVI	The Madras Land Registration Regulation, 1802.	Rep. in part, Mad. Act II of 1864, s. 65. Rep. in part and amended, Act XI of 1901.	9
"	XXIX	The Madras Karnams Regulation, 1802.	Rep. in part, Mad. Reg. II of 1806, s. 7; Act XII of 1876; Rep. locally, Mad. Act II of 1894 (when notified); Rep. in part (except in Scheduled Districts), Mad. Act III of 1895.	10

N. B.—For a complete Chronological list of all Enactments, whether repealed or unrepealed, see the Chronological Tables and Index of the Indian Statutes, Vol. I.

*Chronological Tables.***PART I.—UNREPEALED REGULATIONS OF THE GOVERNOR OF  
FORT ST. GEORGE IN COUNCIL—contd.**

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1803	I	The Madras Board of Revenue Regulation, 1803.	Rep. in part, Mad. Reg. II of 1806; Mad. Reg. V of 1828; Mad. Reg. III of 1830; Act XXIII of 1871; Act X of 1873; Mad. Act II of 1864, s. 62; Mad. Act II of 1869. Rep. in part and supplemented, Mad. Act I of 1894.	14
"	II	The Madras Collectors Regulation, 1803.	Rep. in part, Mad. Reg. II of 1806; Act XXIII of 1871; Act XII of 1873; Act XII of 1876; Mad. Act II of 1864, s. 62; Mad. Act VI of 1865; Mad. Act II of 1869. S. 25 rep. Mad. Act I of 1902.	19
1804	V	<i>The Madras Court of Wards Regulation. 1804.</i>	Rep., except as regards the Scheduled Districts, Mad. Act I of 1902.	25
1806	II	<i>Karnams . . . .</i>	Rep., except as regards the Scheduled Districts, Mad. Act III of 1895.	25
1808	VII	The Madras State-offences Regulation, 1808.	Rep. in part, Act XII of 1876; Mad. Act II of 1869; Amended, Act XIII of 1894.	26
1816	I	The Tanjore Police Regulation, 1816.	Rep. in part, XVIII of 1861.	27

*Chronological Tables.***PART I.—UNREPEALED REGULATIONS OF THE GOVERNOR OF  
FORT ST. GEORGE IN COUNCIL—*contd.***

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1816— <i>contd.</i>	V	The Madras Village-pan- châyats Regulation, 1816.	Rep. in part, Mad. Reg. IX of 1828; Act XXVIII of 1855; Act VII of 1870; Act XII of 1876. S. 16 am. Mad. Act IV of 1904, s. 2.	29
"	XI	The Madras Village-police Regulation, 1816.	Rep. in part, Mad. Reg. IX of 1828; Act XVII of 1862 (as am- ended by Act XXXVI of 1867); Act XII of 1876. Amended, Madras Reg. IV of 1821, s. 6.	36
"	XII	The Madras Village-lands Disputes Regulation, 1816.	Rep. in part, Act XII of 1876; Madras Act II of 1869; <sup>1</sup> Mad. Act IV of 1897.	38
1817	VII	The Madras Endowments and Escheats Regula- tion, 1817.	Rep. in part, Act XX of 1863. Rep. in part, and amended Mad. Act VIII of 1914.	43
"	VIII	The Madras Revenue Re- covery (Military Pro- prieters) Regulation, 1817.	Rep. in part, Act X of 1861; Act XII of 1876; Amended, Act XIII of 1894; Act XI of 1901.	47
1819	II	The Madras State Prison- ers Regulation, 1819.	Rep. in part, Act XVI of 1874; Act XII of 1876.	48
1821	IV	The Madras Village-po- lice Regulation, 1821.	Rep. in part, Act XVII of 1862; Act XII of 1876.	51

<sup>1</sup> So far as it applies to cases of claims to lands or crops, the validity of which claims may depend upon the determination of an uncertain or disputed boundary or landmark.



## Chronological Tables.

PART I.—UNREPEALED REGULATIONS OF THE GOVERNOR OF  
FORT ST. GEORGE IN COUNCIL—*contd.*

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1822	IV	The Madras Permanent Settlement (Interpretation) Regulation, 1822.	Amended, Act XI of 1901.	52
"	VII	The Madras Native Public Officers Regulation, 1822.	Rep. in part, Act XI of 1864; Act XVI of 1874; Mad. Act II of 1869.	53
"	IX	The Madras Revenue Malversation Regulation, 1822.	Rep. in part, Mad. Reg. III of 1823; Mad. Reg. VII of 1828, s. 5; Act XII of 1876; Act XI of 1901; Mad. Act I of 1869. Supplemented, Act XXXVI of 1837; Mad. Reg. III of 1832.	53
1823	III	The Madras Revenue Malversation (Amendment) Regulation, 1823.	Rep. in part, Mad. Reg. VII of 1828; Act XII of 1876; Mad. Act II of 1869. Amended, Act XI of 1901.	61
1828	VII	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.	Rep. in part, Act XII of 1876; Mad. Act II of 1869. Supplemented, Act XXXVI of 1837.	62
1829	V	The Madras Hindu Wills Regulation, 1829.	Rep. in part, Act XII of 1876; Mad. Act II of 1869. Rep. in part, and amended Act XI of 1901.	64
1830	I	The Madras Sati Regulation, 1830.	Rep. in part, Act XII of 1876.	65

*Chronological Tables.***PART I.—UNREPEALED REGULATIONS OF THE GOVERNOR OF  
FORT ST. GEORGE IN COUNCIL—concl'd.**

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1831	V	The Madras Stamp Penalties Regulation, 1831.	Rep. in part, Mad. Act II of 1869.	68
"	VI	<i>The Madras Hereditary Offices Regulation, 1831.</i>	<i>Rep., except as regards the Scheduled Districts, by Madras Act III of 1895.</i>	68
"	X	The Madras Sale of Minors Estates Regulation, 1831.	Rep. in part, Act XII of 1876; Act VIII of 1890.	69
1832	III	The Madras Revenue Malversation (Amendment) Regulation, 1832.	....	70

**PART II.—UNREPEALED LOCAL ACTS OF THE GOVERNOR  
GENERAL IN COUNCIL IN FORCE IN MADRAS.**

Year.	No.	Short title.	Repeals and amendments affecting Madras.	Page.
1837	XXXVI	The Madras Public Property Malversation Act, 1837.	Rep. in part, Act XIV of 1870; Act XVI of 1874.	71
1839	VII	The Madras Rent and Revenue Sales Act, 1839.	Rep. in part, Act XIV of 1870; Act XII of 1873; and amended, Act XII of 1891.	72
"	XXIV	The Ganjam and Vizagapatam Act, 1839.	Rep. in part, Act XIV of 1870; Act XVI of 1874; Act XII of 1891; Mad. Act I of 1865.	73
1840	VIII	The Madras Pancháyats Act, 1840.	....	75

*Chronological Tables.***PART II.—UNREPEALED LOCAL ACTS OF THE GOVERNOR  
GENERAL IN COUNCIL IN FORCE, IN MADRAS—*contd.***

Year.	No.	Short title.	Repeals and amendments affecting Madras.	Page.
1844	VI	The Madras Inland Customs Act, 1844.	Rep. in part, Act VI of 1863 ; Act VIII of 1868 ; Act XI of 1869 ; Act XXIV of 1869 ; Act XIII of 1871 ; Act XVI of 1874 ; Act XVIII of 1877 ; Act XII of 1891 ; Amended, Mad. Act II of 1893.	75
1849	X	The Madras Revenue Commissioner Act, 1849.	.....	78
1851	XII	The Madras City Land-revenue Act, 1851.	Rep. in part, Mad. Act VI of 1867. Amended, Act XII of 1891.	79
1854	XIV	The Malabar War-knives Act, 1854.	Rep. in part, Act XIV of 1870.	82
1857	VII	The Madras Uncovenanted Officers Act, 1857.	Rep. in part, Act XVII of 1862 ; Act X of 1873 ; Act XII of 1873 ; Mad. Act VII of 1914.	83
"	XXVII	The Madras University Act, 1857.	Rep. in part, Act XII of 1876 ; Act XII of 1891. Rep. in part and supplemented, Act VIII of 1904.	84
1858	I	The Madras Compulsory Labour Act, 1858.	Rep. in part, Act XVI of 1874.	89
"	XXXVII	Nawab of Carnatic	Rep. in part Act XVI of 1874. Rep. in part and Amended, Act XII of 1891.	Private Act. Not printed.
1859	XX	The Moplah Outrages Act, 1859.	Rep. in part, Act XIV of 1870 ; Mad. Act VII of 1869.	91

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PART II.—UNREPEALED LOCAL ACTS OF THE GOVERNOR  
GENERAL IN COUNCIL IN FORCE IN MADRAS—*contd.*

Year.	No.	Short title.	Repeals and amendments affecting Madras.	Page.
1859— <i>contd.</i>	XXIV	The Madras District Police Act, 1859.	Rep. in part, Act XVII of 1862; Act XIV of 1870; Act XVI of 1874; Act XVII of 1914; Mad. Act I of 1885; Mad. Act V of 1895. Rep. in part and amended, Mad. Act II of 1889; (except in Scheduled Districts); Mad. Act III of 1895. Amended, Mad. Act V of 1865; Mad. Act III of 1909, ss. 2, 3; Act IV of 1914. Supplemented, Act III of 1888.	94
1873	III	The Madras Civil Courts Act, 1873.	Rep. in part, Act XII of 1873; Act IX of 1887; Act XII of 1891. Rep. in part (when and where rules under s. 3 of Act VII of 1887 take effect) Act VII of 1887, s. 6. Amended, Act XIX of 1877; Act XXI of 1885; Act IV of 1914.	101
1877	XIX	The Madras Civil Courts (Amendment) Act, 1877.	Rep. in part, Act XII of 1891. Amended, Act XXI of 1885 s. 4 (b).	110

*Chronological Tables.***PART II.—UNREPEALED LOCAL ACTS OF THE GOVERNOR  
GENERAL IN COUNCIL IN FORCE IN MADRAS—*contd.***

Year.	No.	Short title.	Repeals and amendments affecting Madras.	Page.
1879	IX	The Burma Coast Lights Act, 1879.	Rep. in part, Act X of 1889. Amended, Act XIII of 1898, s. 16.	110
"	XVI	The Transport of Salt Act, 1879.	Rep. in part, Act XI of 1901. Amended, Act XII of 1891. Act IV of 1914.	115
1881	XVIII	The Central Provinces Land-revenue Act, 1881.	Rep. in part, and amended, Act XVI of 1889; Act XII of 1891; Act XII of 1898; Act IV of 1907. Amended, Act XIII of 1908; Reg. I of 1909, s. 3 (2), prov.	117
1882	V	The Indian Easements Act, 1882.	Amended, Act XII of 1891; Act X of 1914.	130
"	XXI	The Madras Forest (Validation) Act, 1882.	....	204
1883	I	The Central Provinces Local Self-Government Act, 1883, s. 41 (f).	Amended, Act XVI of 1889, s. 41.	205
1884	II	The Madras Partition-deeds (Validation) Act, 1884.	Rep. in part, Act XII of 1891.	205
1885	XXI	The Madras Civil Courts Act, 1885.	Rep. in part, Act XVII of 1914.	206
1889	V	The Coroners (Madras) Act, 1889.	Rep. in part, Act V of 1898. Rep. in part and amended, Act XII of 1891. Amended, Act I of 1903.	207
"	XVI	The Central Provinces Land-revenue Act, 1889.	Rep. in part, Act XII of 1891; Act XII of 1898, s. 13. S. 12 virt. rep., Act XIII of 1908, s. 4. Ss. 33, 39 virt. amended, Act XII of 1898, ss. 10, 12.	209

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**PART II.—UNREPEALED LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN MADRAS—concl'd.**

Year.	No.	Short title.	Repeals and amendments affecting Madras.	Page.
1892	VII	The Madras City Civil Court Act, 1892.	Rev. in part, Act XVII of 1914. Amended Act IV of 1914.	212
1898	XI	The Central Provinces Tenancy Act, 1898.	Amended, Act XXI of 1899; Reg. I of 1909, s. 3 (2) prov.	216
"	XII	The Central Provinces Land-revenue Act, 1898.	....	253
1899	XXI	The Central Provinces Tenancy (Amendment) Act, 1899.	....	254
1901	VI	The Assam Labour and Emigration Act, 1901.	Sa. 91, 218, amended, Act XI of 1908.	255
1907	IV	The Repealing and Amending Rates and Cesses Act, 1907.	....	323
1908	XI	The Assam Labour and Emigration (Amendment) Act, 1908.	....	327
"	XIII	The Central Provinces Financial Commissioner's Act, 1908.	Amended, Act IV of 1914.	327

**PART III.—UNREPEALED REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT., CAP. 3) IN FORCE IN MADRAS.**

Year.	No.	Short title.	Repeals and amendments.	Page.
1909	I	The Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909.	....	329
1912	I	The Laccadive Islands and Minicoy Regulation, 1912.	....	331

*Chronological Tables.***PART IV.—UNREPEALED ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.**

Year.	No.	Short title.	Repeals and amendments.	Page.
1862	IV	The Madras Enfranchised Inams Act, 1862.	Rep. in part and amended, Act XI of 1901.	338
1863	V	The Madras Pier Act, 1863.	Rep. in part, Act XII of 1873. Supplemented, Mad. Act VII of 1871.	338
1864	II	The Madras Revenue Re- covery Act, 1864.	Rep. in part, Act XII of 1873. Amended, Mad. Act III of 1884; Mad. Act I of 1897; Mad. Act I of 1909. Rep. in part and amended, Mad. Act VIII of 1914.	343
<sup>1</sup> 1864	III	<i>An Act for amending the Abkari Laws of the Mad- ras Presidency beyond the limits of the Madras Abkari as prescribed by Act XIX of 1852.</i>	<i>Rep. locally, Mad. Act I of 1886.</i>	358
1865	I	The Madras District Li- mits Act, 1865.	Rep. in part, Act III of 1873; Act XI of 1901.	358
"	V	The Madras District Po- lice (Amendment) Act, 1865.	....	359
"	VI	The Madras Official Seals Act, 1865.	Rep. in part, Act XII of 1873.	360
"	VII	The Madras Irrigation Cess Act, 1865.	Amended, Mad. Act V of 1900; Mad. Act II of 1913; Mad. Act VIII of 1914.	360
1866	II	The Madras Cattle-disease Act, 1866.	Amended, Mad. Act I of 1879; Mad. Act VIII of 1914.	362

<sup>1</sup> For areas in which Mad. Act III of 1864 is still in force see footnote to Mad. Act I of 1886, printed *infra*, and Appendix, Pt. I.

*Chronological Tables.*PART IV.—UNREPEALED ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL—*contd.*

Year.	No.	Short title.	Repeals and amendments.	Page.
1866— <i>contd.</i>	IV	The Madras Enfranchised Inams Act, 1866.	....	367
1867	I	The Madras General Clauses Act, 1867.	Rep. in part, Act XVI of 1874. Application restricted, Mad. Act I of 1891, s. 2.	368
"	VI	The Madras City Land- revenue (Amendment) Act, 1867.	Rep. in part, Act XII of 1873.	369
1869	III	The Madras Revenue Summonses Act, 1869.	....	375
"	VI	Madras Equitable Assu- rance Society.	Amended, Mad. Act. III of 1911.	Private Act. Not printed.
"	VII	The Moplah Outrages Act (Continuance Act, 1869.	....	376
"	VIII	The Madras Inams Act, 1869.	....	377
1871	VII	The Madras Pier (Amendment) Act, 1871.	....	378
1873	I	The Madras Wild Ele- phants' Preservation Act, 1873.	....	380
1876	I	The Madras Land-reve- nue Assessment Act, 1876.	Rep. in part, Act XI of 1901;  Mad. Act VIII of 1914. Amended, Mad. Act II of 1914.	381
1878	VII	The Madras Municipal Police Act, 1878.	Rep. in part, Act XI of 1901.	383
"	VIII	The Madras Coffee-steal- ing Prevention Act, 1878.	Rep. in part and amended, Mad. Act II of 1900.	384
1879	I	The Madras Cattle- disease (Amendment) Act, 1879.	....	388
"	II	The Nilgiris Game and Fish Preservation Act, 1879.	Supplemented, Act IV of 1897.	388



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PART IV.—UNREPEALED ACTS OF THE GOVERNOR OF FORT ST.  
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Year.	No.	Short title.	Repeals and amendments.	Page.
1879— <i>contd.</i>	III	<i>The Madras Hackney Carriage Act, 1879.</i>	<i>Virt. repealed as it is no longer in force in any part of Madras.</i>	Not printed
"	V	<i>The Madras Abkari Laws Amendment Act, 1879.</i>	<i>Rep. locally, Mad. Act I of 1886.</i>	391
1881	I	<i>The Madras Ports Police Act, 1881.</i>	<i>Rep. in part, Act XI of 1901.</i>	391
1882	V	<i>The Madras Forest Act, 1882.</i>	<i>Confirmed, Act XXI of 1882. Amended, Mad. Act VIII of 1914.</i>	394
1883	IV	<i>Jurisdiction of Village Munsifs.</i>	<i>Rep. except as to Scheduled Districts, Mad. Act I of 1889.</i>	417
1884	III	<i>The Madras Revenue Recovery (Amendment) Act, 1884.</i>	....	418
"	IV	<i>The Madras District Municipalities Act, 1884.</i>	<i>Rep. in part, Act IX of 1888; Act II of 1901. Rep. in part and amended, Mad. Act III of 1897. Amended, Mad. Act I of 1899; Mad. Act V of 1909; Mad. Act III of 1913; Mad. Act VIII of 1914. Supplemented and repealed in part and amended, in Hill Municipalities, Mad. Act II of 1907.</i>	418
"	V	<i>The Madras Local Boards Act, 1884.</i>	<i>Rep. in part, Act II of 1901. Rep. in part and amended— Mad. Act VI of 1900; Act XI of 1901;</i>	542

*Chronological Tables.***PART IV.—UNREPEALED ACTS OF THE GOVERNOR OF FORT ST.  
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Year.	No.	Short title.	Repeals and amendments.	Page.
1884— <i>contd.</i>			Amended, Mad. Act III of 1890. Mad. Act III of 1913. Mad. Act VIII of 1914.	
"	VI	The Madras Rivers Conservancy Act, 1884.	Amended, Mad. Act II of 1885.	626
1885	II	The Madras Rivers Conservancy (Amendment) Act, 1885.	....	632
"	III	The Madras Out-ports Landing and Shipping Fees Act, 1885.	Rep. in part, Mad. Act VIII of 1914.	632
1886	I	The Madras Abkari Act, 1886.	Amended, Mad. Act I of 1905. Mad. Act I of 1913.	635
"	IV	The Railway Protection Act, 1886.	....	660
1888	I	The Local Authorities Loan Act, 1888.	Rep. in part, Act XI of 1901.	664
"	II	The Places of Public Resort Act, 1888.	Rep. in part, Act XI of 1901.	666
"	III	The Madras City Police Act, 1888.	Rep. in part, Act XI of 1901. Mad. Act IV of 1905. Amended, Mad. Act III of 1898.	669
1889	I	The Madras Village Courts Act, 1888.	Rep. in part, Act XI of 1901. Amended, Mad. Act IV of 1904, s. 3.	687
"	III	The Towns Nuisances Act, 1889.	Rep. in part, Act XI of 1901. Amended, Mad. Act III of 1909, s. 4.	700
"	IV	The Madras Salt Act, 1889.	Rep. in part, Act XI of 1901. Rep. in part and amended, Mad. Act VIII of 1914.	703

*Chronological Tables.***PART IV.—UNREPEALED ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.—*contd.***

Year.	No.	Short title.	Repeals and amendments.	Page.
1890	II	The Canals and Public Ferries Act 1890.	Rep. in part, Act XI of 1901. Amended, Mad. Act II of 1895; Mad. Act V of 1914; Mad. Act VIII of 1914.	725
"	III	The Madras Local Boards and Rent Recovery (Amendment) Act, 1890.	Rep. in part, Mad. Act I of 1908.	729
1891	I	The Madras General Clauses Act, 1891.	Amended, Mad. Act II of 1896.	731
1893	II	The Madras Inland Customs (Amendment) Act, 1893.	....	738
"	III	The Madras Steam-boilers and Prime-movers Act, 1893.	Amended, Mad. Act I of 1901; Mad. Act, VII of 1909.	738
"	V	The Madras Revenue Enquiries Act, 1893.	....	746
1894	I	The Madras Board of Revenue Act, 1894.	Rep. in part, Act XI of 1901.	747
"	II	The Madras Proprietary Estates Village-service Act, 1894.	Rep. in part, Mad. Act IV of 1911, s. 2. Rep. in part, and amended, Mad. Act III of 1914. Amended (except in Scheduled Districts), Mad. Act III of 1895. Amended, Mad. Act IV of 1900.	748
1895	II	The Madras Canals and Public Ferries (Amendment) Act, 1895.	....	758
"	III	The Madras Hereditary Village-offices Act, 1895.	Rep. in part, Act XI of 1901. Rep. in part, and amended, Act IV of 1907. Amended, Mad. Act II of 1897.	758

*Chronological Tables.***PART IV.—UNREPEALED ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL—*contd.***

Year.	No.	Short title.	Repeals and amendments.	Page.
1896	I	The Madras Rent Recovery (Amendment) Act, 1896.	....	768
"	II	The Madras General Clauses (Amendment) Act, 1896.	....	769
"	III	The Malabar Land Registration Act, 1896.	....	769
"	IV	The Malabar Marriage Act, 1896.	Amended, Mad. Act I of 1898.	773
1897	I	The Madras Revenue Recovery (Amendment) Act, 1897.	....	781
"	II	The Madras Hereditary Village offices (Amendment) Act, 1897.	....	781
"	III	The Madras District Municipalities Act Amendment Act, 1897.	....	782
"	IV	The Madras Survey and Boundaries Act, 1897.	Rep. in part, Mad. Act IV of 1911, s. 2. Rep. in part and amended, Mad. Act IV of 1900. Amended, Mad. Act VIII of 1914.	803
1898	I	The Malabar Marriage (Amendment) Act, 1898.	....	813
"	III	The Madras City Police (Amendment) Act, 1898.	....	813
"	V	The Malabar Wills Act, 1898.	....	814
1899	I	The Madras District Municipalities (Amendment) Act, 1899.	...	817
"	III	The Madras Registration of Births and Deaths Act, 1899.	....	817
"	IV	The Madras Court of Wards (Amendment) Act, 1899.	Rep. (except in Scheduled Districts), Mad. Act I of 1902.	821

*Chronological Tables.***PART IV.—UNREPEALED ACTS OF THE GOVERNOR OF FORT ST.  
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Year.	No.	Short title.	Repeals and amendments.	Page.
1900	I	The Malabar Compensation for Tenants Improvements Act, 1899.	Rep. in part, Act XI of 1901.	822
"	II	The Madras Coffee-stealing Prevention Act Amendment Act, 1900.	....	827
"	IV	The Madras Proprietary Estates and Survey (Amendment) Act, 1900.	S. 1 virt. rep. and s. 2 virt. amended, Mad. Act IV of 1911, s. 2.	828
"	V	The Madras Irrigation-cess (Amendment) Act, 1900.	....	828
"	VI	The Madras Local Boards Act Amendment Act, 1900.	S. 73 virt. rep. part and s. 5 virt. amended, Act XI of 1901, Schedules III and II.	829
1902	I	The Madras Court of Wards Act, 1902.	Amended, Mad. Act I of 1911.	846
1903	I	The Madras Planters Labour Act, 1903.	....	868
1904	I	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1904.	....	878
"	II	The Madras Impartible Estates Act, 1904.	Sch. amended, Mad. Act VI of 1909.	878
"	III	The Madras City Municipal Act, 1904.	Amended, Mad. Act IV of 1907; Mad. Act II of 1911.	882
"	IV	The Madras Village Panchayats Regulation and the Madras Village Courts Act Amendment Act, 1904.	....	1050
1905	I	The Madras Abkari (Amendment) Act, 1905.	....	1051
"	II	The Madras Port Trust Act, 1905.	....	1051
"	III	The Madras Land Encroachment Act, 1905.	Rep. in part and amended, Mad. Act VII of 1914.	1083

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Year.	No.	Short title.	Repeals and amendments.	Page.
1905— <i>cont'd.</i>	IV	The Madras City Police Act Amendment Act, 1905.	....	1088
1907	II	The Madras Hill Municipalities Act, 1907.	....	1089
"	III	The Madras City Police (Amendment) Act, 1907.	....	1106
"	IV	The Madras City Municipal Act, Amendment Act, 1907.	....	1107
1908	I	The Madras Estates Land Act, 1908.	Rep. in part, and amended— Mad. Act IV of 1909.	1107
1909	I	The Madras Revenue Recovery Amendment Act, 1909.	....	1183
"	II	<sup>1</sup> <i>An Act to repeal the Madras Labour and Emigration Act, 1866 (Mad. Act V of 1866.)</i>	....	1183
"	III	The Madras District Police and Towns Nuisances Acts Amendment Act, 1909.	....	1184
"	IV	The Madras Estates Land Act Amendment Act, 1909.	....	1184
"	V	The Madras District Municipalities Act Amendment Act, 1909.	....	1186
"	VI	The Arni Jagir Act, 1909.	....	1187
"	VII	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1909.	....	1187
1911	I	The Madras Courts of Ward Act, 1902, Amendment Act, 1910.	....	1188
"	II	The Madras City Municipal (Amendment) Act, 1911.	....	1189

<sup>1</sup> Mad. Act II of 1909 is spent.

*Chronological Tables.*PART IV.—UNREPEALED ACTS OF THE GOVERNOR OF FORT  
ST. GEORGE IN COUNCIL—*concl'd.*

Year.	No.	Short title.	Repeals and amendments.	Page.
1911— <i>cont'd.</i>	III	The Madras Equitable Assurance Society's (Amendment) Act, 1911.	....	Private Act. Not printed.
"	IV	The Limited Proprietors Act, 1911.	....	1189
"	V	The Madras Hackney Carriage Act, 1911.	....	1192
1913	I	The Madras Abkari (Amendment) Act, 1913.	....	1203
"	II	The Madras Irrigation Cess (Amendment) Act, 1913.	....	1207
"	III	The Madras District Municipalities and Local Boards (Amendment) Act, 1913.	....	1207
1914	I	The Hindu Transfers and Bequests Act, 1914.	....	1208
"	II	The Madras Land Revenue Assessment (Amendment) Act, 1914.	....	1209
"	III	The Madras Proprietary Estates' Village Service (Amendment) Act, 1914.	....	1210
"	IV	The Madras Medical Registration Act, 1914.	....	1211
"	V	The Canals and Public Ferries (Amendment) Act, 1914.	....	1210
"	VI	The Tirupati Devasthanam Schools Act, 1914.	....	1217
"	VII	The Madras Deputy Collector's Act, 1914.	....	1217
"	VIII	The Madras Decentralization Act, 1914.	....	1218

# THE MADRAS CODE.

## PART I.

### REGULATIONS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

#### MADRAS REGULATION III OF 1802.<sup>1</sup>

{THE MADRAS ADMINISTRATION OF ESTATES REGULATION, 1802.}

[1st January, 1802.]

A Regulation for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adalat established in the several Zilas immediately subject to the Presidency of Fort St. George.

THE following rules are enacted for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adalat established in the several Zilas :

**2 to 6.** [*Parties to suits : contents of complaints : procedure in suits.*] Rep., Act X of 1861.

**7.** [*Provisions regarding attendance of witnesses, depositions and exhibits.*] Rep., Acts X of 1861 and III of 1873.

**8.** [*Commitment of witnesses for perjury.*] Rep., Act XVII of 1862.

**9 & 10.** [*Judgment and execution of decree : judgment-debtor's subsistence-money.*] Rep., Act X of 1861.

**11.** [*Certain decrees to be transmitted to Collector of Zila and Board of Revenue.*] Rep., Act XII of 1876.

**12 to 15.** [*Procedure on default of plaintiff or defendant to appear or plead : service of processes.*] Rep., Act X of 1861.

<sup>1</sup> Short title, "The Madras Administration of Estates Regulation, 1802"—see the Repealing and Amending Act, 1901 (XI of 1901).

Section 1 and the unrepealed part of s. 16 have been declared by s. 4 and the Second Schedule to the Law's Local Extent Act, 1874 (XV of 1874), to be in force in the whole of the Madras Presidency, except as regards the Scheduled Districts. [For Act XV of 1874, see General Acts, Vol. II.] S. 1 and the unrepealed part of s. 16 have been declared, by notification under s. 3 of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.*, p. 723.

The same portions of the Regulation have been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.*, p. 722.



**16.** [*First clause.—Laws applicable to certain classes of suits.*] *Rep. Act III of 1873.*

Executors to Muhammadans and others whose heirs are not disqualified landholders to take charge of assets and execute trust. Courts not to interfere, except on regular complaint. Procedure on such complaint.

<sup>1</sup> *Second.*—In all cases of a Mussulman, or other person subject to the jurisdiction of the Zila Courts, having at his death left a will, and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder subject to the superintendence of the Court of Wards, the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to \* \* \* \* \*<sup>2</sup> any \* \* \*<sup>2</sup> officer of Government for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust, or otherwise, when they are to take cognizance of such complaint, in common with all others of a civil nature,<sup>3</sup> \* \* \* \* \*<sup>3</sup> with respect to which the Judge is to be guided by the law of the parties, \* \* \* \* \*

Heirs of intestate or their guardians when not required to apply to Courts for permission to take possession.

*Third.*—In case of a Hindu, Mussulman or other person subject to the jurisdiction of the Zila Courts dying intestate,<sup>4</sup> but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age, and competent to take the possession and management of the estate, or if under age or incompetent, and not under the superintendence of the Court of Wards, his guardian or nearest of kin, who by special appointment, or by the law and usage of the country, may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased, as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred, \* \* \* \* \*

More heirs than one to intestate's estate may appoint

*Fourth.*—If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of

<sup>1</sup> This clause, so far as it applies to Hindus, was repealed by Mad. Reg. V of 1829, s. 2, while so much of it as applies to law-officers has been repealed by Mad. Act V of 1867.

<sup>2</sup> The words "the Judge of the Court of Adalat, or," the word "other" and the words "under the general rule contained in section V, Regulation II, 1802, and proceed thereupon according to the Regulations," were repealed by Act XII of 1876.

<sup>3</sup> The words "taking the opinion of their law-officers upon any legal exception to the executors, as well as upon the provision to be made for the administration of the estate, in the event of the appointed executor being set aside, and generally upon all points of law that may occur," and the words and figures "as expounded by his law-officers, subject to any modifications enacted by the Governor in Council in the form prescribed by Regulation I, 1802," were repealed by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 (2) and the Third Schedule.

<sup>4</sup> As to extended application of this clause and also of the succeeding clauses, see Mad. Reg. V of 1829, s. 3, *infra*.

<sup>5</sup> The words "when they are to proceed thereupon according to the general regulations" were repealed by Act XII of 1876.

Justice are restricted from interference, without a regular complaint, as in the case of a single heir ; but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession, for his or their compliance with the judgment that may be passed in the suit ; or, in default of such security being given, within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants, who may be able to give such security ; declaring, at the same time, that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may, on investigation, be found entitled to succeed thereto.

*Fifth.*—In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding clause, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same ; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

*Sixth.*—In all instances of an administrator being appointed under this section, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust, in a sum proportionate to the extent thereof ; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadr Adálat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon after deducting the expenses of management.

*Seventh.*—The Judges of the Zila Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement, in the current language of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose ; such advertisement to be published on the spot

common manager and take possession. When right of succession is disputed, security to be taken from party in possession. Failing such security, claimants giving it to be placed in possession.

When Judge may appoint administrator to manage intestate's estate.

Administration when to cease.

Security to be taken from administrators appointed under this section. How their allowance is to be fixed.

Procedure in cases of persons dying intestate, leaving unclaimed personal property.

where the property was found, at the Adálat, kachari of the zila and, if ascertainable, at the dwelling-place of the deceased, \* \* \* \* \*<sup>1</sup> after which, should any person attend, and satisfy the Judge of his title to the property, or to receive charge thereof as executor, administrator or otherwise the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property, and report of the circumstances of the case, is to be transmitted to the Governor in Council for his orders.

**17 to 20.** [*Rules as to reference of questions of fact and law : local investigations of amins : costs payable by plaintiff : order of trial of suits and cause-list.*] Rep., Act X of 1861.

**21.** [*Language and character of processes, and payment of peons.*] Rep., Act XVI of 1874.

**22 to 26.** [*Power of Court to fine for certain contempts of authority : procedure in cases when land proprietors, Government farmers or other persons resist processes.*] Rep., Mad. Act II of 1869.

**27 to 29.** [*Contents of decrees of Court : form of security bond for attendance of defendants.*] Rep., Act X of 1861.

#### MADRAS REGULATION XIX OF 1802.<sup>2</sup>

[THE INDIAN CIVIL SERVICE (MADRAS) LOANS PROHIBITION REGULATION, 1802.]

[1st January, 1802.]

A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue, lending money to Zamindars, independent Taluqdars or other actual Proprietors of land or dependent Taluqdars or Farmers of land, holding farms immediately of Government, or the Under-farmers or Raiyats of the several descriptions of Proprietors and Farmers of land above-mentioned, or their respective sureties \* \* \* \* \*

[*Preamble.*] Rep. by Mad. Act II of 1869.

**2.** The Judges and Magistrates of the Zila Courts. \* \* \* <sup>5</sup> or other Covenanted servants, etc.,

<sup>1</sup> The words "or, if the deceased were an European, in the Madras Gazette," were repealed by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 (2) and the Third Schedule.

<sup>2</sup> Short title, "The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802"—see the Repealing and Amending Act, 1901 (XI of 1901).

<sup>3</sup> The remaining portion of the title, which had become obsolete, was repealed by Act XI of 1901, see s. 3 (2) and the Third Schedule.

<sup>4</sup> This section was declared in force in the whole of the Madras Presidency except the Scheduled Districts, by s. 4 and the Second Schedule to the Laws Local Extent Act, 1874 (XV of 1874), General Acts, Vol. II.

It has further been declared, under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts of Ganjam and Vizagapatam—see Notification No. 285, Fort St. George Gazette, 1898, Pt. I, p. 666.

<sup>5</sup> Words relating to Registrars and their Assistants, and to Judges of Provincial Courts of Appeal and Courts of Circuit were repealed by Mad. Act II of 1869.

**1802: Mad. Reg. XIX.] Civil Service Loans Prohibition.** 5  
**1802: Mad. Reg. XXV.] Permanent Settlement.**

officers, being covenanted servants of the Company, and the Collectors of the revenue and their assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, dependent taluqdār, or under-farmer, or raiyat, or their sureties; and all such loans as have been made in opposition to the repeated prohibitions of Government, or which may be hereafter made, are declared not recoverable in any Court of Judicature.

**3 to 6.** [*Restrictions on holding of lands by Europeans.*] *Rep., Mad. Act II of 1869.*

## MADRAS REGULATION XXV OF 1802.<sup>1</sup>

[THE MADRAS PERMANENT SETTLEMENT REGULATION, 1802.]

[13th July, 1802.]

<sup>2</sup> A Regulation for declaring the proprietary right of lands to be vested in individual persons, and for defining the rights of such persons, under a permanent Assessment of the Land-revenue in the British territories subject to the Presidency of Fort St. George.

WHEREAS it is known to the zamindārs, mirāsīdārs, raiyats and cultivators of land in the territories subject to the Government of Fort St. George, that from the earliest until the present period of time the public assessment of the land-revenue has never been fixed; but that, according to the practice of Asiatic Governments, the assessment of the land-revenue has fluctuated without any fixed principles for the determination of the amount, and without any security to the zamindārs or other persons for the continuance of a moderate land-tax; that, on the contrary, frequent inquiries have been instituted by the ruling Power, whether Hindu or Muhammadan, for the purpose of augmenting the assessment of the land-revenue; that it has been customary to regulate such augmentations by the inquiries and opinions of the local officers appointed by the ruling Power for the time being; and that in the attainment of an increased revenue on such foundations, it has been usual for the Government to deprive the zamindārs, and to appoint persons on its own behalf to the management of the zamindārīs, thereby reserving to the ruling Power the implied right and the actual exercise of the proprietary possession of all lands whatever; and whereas it is obvious to the said zamindārs

<sup>1</sup> Short title, "The Madras Permanent Settlement Regulation, 1802"—see the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4, and the Second Schedule. Printed, General Acts, Vol. II.

It has further been declared in force in the Scheduled Districts of Ganjam and Vizagapatam, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874)—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, 1898, Pt. I, p. 666.

<sup>2</sup> See Mad. Reg. IV of 1822, s. 2, *infra*.

mírásídárs, raiyats and cultivators of land that such a mode of administration must be injurious to the permanent prosperity of the country by obstructing the progress of agriculture, population and wealth, and destructive of the comfort of individual persons by diminishing the security of personal freedom and of private property; wherefore, the British Government, impressed with a deep sense of the injuries arising to the State and to its subjects from the operation of such principles, has resolved to remove from its administration so fruitful a source of uncertainty and disquietude, to grant to zamíndárs and other landholders, their heirs and successors, a permanent property in their land in all time to come, and to fix for ever a moderate assessment of public revenue on such lands, the amount of which shall never be liable to be increased under any circumstances.

Assessment  
on all lands  
liable to  
revenue.  
Proprietary  
right vested  
in zamíndárs.

2. In conformity to these principles, an assessment shall be fixed on all lands liable to pay revenue to the Government; and, in consequence of such assessment, the proprietary right of the soil shall become vested in the zamíndárs or other proprietors of land, and in their heirs and lawful successors for ever.

Instruments  
to be granted  
to zamíndárs.  
Correspond-  
ing kabúli-  
iyats.

3. Where the conditions of the permanent assessment of the revenue may have been adjusted, a sanad-i-milkiyat-i-istimrar, or deed of permanent property, shall be granted on the part of the British Government to all persons being, or constituted to be zamíndárs or proprietors of land; and each zamíndár or proprietor of land shall execute and deliver to the Collector of the district a corresponding kabúliyat.

The said sanad and kabúliyat shall contain the conditions and articles of tenure by which the lands shall be held.

Cases of  
disputed  
assessment.

In all cases of disputed assessment reference shall be had to the sanads and kabúliyats, and judgment shall be given by the Courts of Judicature in conformity to the conditions under which the agreement may have been formed in each particular case.

Articles of  
revenue  
which Gov-  
ernment re-  
serves right  
of abolishing  
or continu-  
ing.  
Land-tax  
to be perma-  
nently fixed  
exclusive of  
these articles.

4. The Government having reserved to itself the entire exercise of its discretion in continuing or abolishing, temporarily or permanently, the articles of revenue included, according to the custom and practice of the country, under the several heads of salt and saltpetre—of the sayar, or duties by sea or land—of the ábkári, or tax on the sale of spirituous liquors and intoxicating drugs—of the excise on articles of consumption—of all taxes personal and professional, as well as those derived from markets, fairs or bazars—of lakhiraj lands (or lands exempt from the payment of public revenue), and of all other lands paying only favourable quit-rents—the permanent assessment of the land-tax shall be made exclusively of the said articles now recited.

Police  
expenses to  
be borne by  
Government.  
Lands ap-  
propriated to

5. The Government having charged itself generally with the maintenance and support of such establishments as may be requisite in the several provinces, cities and towns for the better keeping of the police, no lands shall be considered, as heretofore, to be holden on the condition of

performing police duties, unless the same shall be specially provided for in the sanad-i-milkiyat-i-istimrar: and all lands or rasms heretofore appointed to the support of police establishments shall be disposed of in such manner as the Government may think fit.

6. The landholders shall regularly pay in all seasons, in the current coin of their respective provinces, the amount of the permanent assessment fixed on their lands; the remission of revenue which has occasionally been granted according to the custom of the country on account of drought, inundation or other calamity of the season shall cease and never be revived; and where landholders may fail to discharge their pecuniary engagements their property shall be answerable for the consequence of such failure.

this purpose to be resumed.

Amount of assessment to be regularly paid. No remission of revenue to be allowed. Landholders' property answerable for consequences of failure.

7. Where such failure may occur, the personal property of landholders shall in the first instance be attached, and ultimately their lands shall be liable to be sold and transferred from them for ever, if necessary, for the payment of the public revenue.<sup>1</sup>

Their personal property to be attached in the first instance.

8. Proprietors of land shall be at free liberty to transfer without the previous consent of the Government, or of any other authority, to whomever they may think proper, by sale, gift or otherwise, their proprietary right the whole or in any part of their zamíndáris; such transfers of land shall be valid and shall be respected by the Courts of Judicature and by the officers of Government; provided they shall not be repugnant to the Muhammadan or to the Hindu laws, or to the regulations of the British Government. But unless such sale, gift or transfer shall have been regularly registered at the office of the Collector, and unless the public assessment shall have been previously determined and fixed on such separated portions of land by the Collector, such sale, gift or transfer shall be of no legal force or effect, nor shall such transaction exempt a zamíndár from the payment of any part of the public land-tax assessed on the entire zamíndari previously to such transfer, but the whole zamíndári shall continue to be answerable for the total land-tax, in the same manner as if no such transaction had occurred.

Proprietors of land may transfer proprietary right in whole or part of their zamíndáris.

Restrictions under which such transfer is to be made.

9. Where a part of a zamíndári may be sold for the liquidation of arrear of the public assessment, or for the satisfaction of a decree of a Court of Judicature, or where part of a zamíndári may be transferred by sale, gift or otherwise, the zamíndár or landholder shall furnish to the Collector true and correct accounts of the entire zamíndári, and of the portion of the zamíndári about to be separated, for a period of time not less than the three years preceding such sale or transfer, in order that the due proportion of the public revenue may be fixed thereon.

Accounts to be furnished in forming part of zamíndári into separate estate.

The assessment to be fixed in this case on the separated lands shall always bear the same proportion to the actual value of the separated portion as the

Principle regulating assessment

<sup>1</sup> The estates of minors are exempted from sale for arrears of revenue by Mad. Reg. V of 1804, s. 14, cl. 4, and Mad. Reg. X of 1831, s. 2, cl. 1, printed, *infra*.

on part to be separated. total permanent jamá on the zamíndári bears to the actual value of the whole zamíndári.

**10.** [No separate estate to be created with a less jamá than 500 pagodas.] Rep., Mad. Act II of 1869.

Number of karnams to be kept up : to be appointed by zamíndárs. **11.** The zamíndárs or landholders shall support the regular and established number of karnams in the several villages of their respective zamíndáris.

The karnams shall be appointed from time to time by the zamíndárs, and shall obey all legal orders issued by them ; but the karnams shall not be liable to be removed from their offices, except by the sentence of a Court of Judicature.

Procedure against karnams in cases of complaint. Where a zamíndár, or his under-farmers, tenants or raiyats, may have cause of complaint against a karnam for breach of his duty, such zamíndár shall be free to institute a suit in the Adálat of the zila for the purpose of bringing such karnam to trial and punishment ; but, where a zamíndár may deprive a karnam of his office without such previous regular process, the zamíndár shall be liable to make such satisfaction for the injury as the Adálat of the zila may decree.

Appointment of successor to karnam dismissed from office. Where a karnam may be dismissed from his office by the sentence of a Court of Judicature, the zamíndár shall in the first instance select a successor from the family of the last incumbent, provided any member of that family be found capable of performing the duty of karnam ; but where no member of the family may be capable of discharging the duty of karnam, in that case the zamíndár shall exercise his discretion in the appointment of a proper person. The name of the person appointed to succeed to the office of karnam shall be reported to the Collector of the zila by the zamíndár.

No part of an estate permanently assessed can be exempted from bearing its portion of public tax. Lands allotted to religious purposes. **12.** It shall not be competent to proprietors of land to appropriate any part of a landed estate permanently assessed, to religious or charitable or to any other purposes by which it may be intended to exempt such lands from bearing their portion of the public tax ; nor shall it be competent to a proprietor of land to resume lands, or to fix a new assessment on lands which may be allotted (at the time when such proprietor may become possessed of the estate in which lands are situated) to religious or to charitable purposes under the denominations of Devasthan or Devadáyam, of Brahmádáyam or Agraháram, of Yaumiá, Jivadán or Madad Ma'ásh, of Pírán, Fakírán, or any other description of exempted lands described under the general term of lakhiraj unless the consent of the Government shall have been previously obtained for that purpose.

Where consent is obtained, assessment on such lands to be paid as fixed by Collector. **13.** Where the consent of the Government may have been obtained to a particular appropriation of the lands above described, the proprietor of the estate in which such lands are situated shall pay such assessment of revenue as may be fixed on the said lands by the Collector of the zila.

<sup>1</sup> This section ceases to be in force in estates where the Madras Proprietary Estates' Village-service Act, 1894 (Mad. Act II of 1894), is extended to the office of village-accountant—see s. 3 of that Act, printed *infra*.

14. Zamindárs or landholders shall enter into engagements with their raiyats for a rent, either in money or in kind, and shall, within a reasonable period of time, grant to each raiyat a patta or kaul, defining the amount to be paid by him, and explaining every condition of the engagement. And the said zamindárs or landholders shall grant regular receipts to the raiyats for discharges in money or in kind made by the raiyats on account of the zamindárs. Where a zamindár after the expiration of a reasonable period of time from the execution of his kabúliyat may neglect or refuse to comply with the demand of his under-farmers or raiyats for the pattas or receipts above mentioned, such zamindár shall be liable to be sued in the Adálat of the zila, and shall pay such damages as may be decreed by the Adálat to the complainant.

Zamindárs to engage with raiyats, to grant pattas, and to give receipts for rents.

Zamindárs refusing to give pattas or receipts, liable to be sued.

15. Zamindárs shall aid and assist the officers of Government in apprehending and securing offenders of all descriptions, and they shall inquire and give notice to the Magistrates of robbers or other disturbers of the public peace who may be found, or who may seek refuge, in their zamindáris.

Zamindárs to assist in keeping the peace.

MADRAS REGULATION XXVI OF 1802.<sup>1</sup>

[THE MADRAS LAND REGISTRATION REGULATION, 1802.]

[13th July, 1802.]

A Regulation for governing the<sup>2</sup> [registration of landed estates paying revenue to the Government] in the British Territories subject to the Presidency of Fort St. George.

\* \* \* \* \*

WHEREAS it is expedient that public means should be established for the purpose of ascertaining the public revenue on [landed estates paying revenue to the Government] as well as for prescribing rules for the transfer of all lands; wherefore the following rules have been passed for that purpose:—

2. The Collectors of zilas shall keep public registers, according to the forms prescribed by the Board of Revenue, for the purpose of registering the landed property paying revenue to Government within their respective zilas and shall enter all transfers of land from one proprietor to another, which

Collectors to keep registers of revenue-paying lands and of transfers of lands.

<sup>1</sup> Short title, "The Madras Land Registration Regulation, 1802"—see the Repealing and Amending Act, 1901 (XI of 1901).

Sections 1, 2 and 3 only have been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and Second Schedule. Printed, General Acts, Vol. II.

It has been declared, under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts of Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 871.

<sup>2</sup> These words in square brackets were substituted for the words "sale and sub-division of Málguzári lands" by the Repealing and Amending Act, 1901 (XI of 1901)—see the Second Schedule, Part I.

<sup>3</sup> The first three lines of the preamble were repealed by Act XI of 1901—see the Second Schedule, Part I.

<sup>4</sup> These words in square brackets were substituted for the words "such lands" by the Repealing and Amending Act, 1901 (XI of 1901)—see the Second Schedule, Part I.



said registers shall be open at all times to the inspection of persons concerned in seeing them.

Unregistered  
transfers of  
land not  
valid.

3. Transfers of land made by individual persons, without being so registered in the registers of the Collectors, shall not be valid in Courts of Adalat; and such transfers of land, being unregistered, shall not exempt the persons in whose names the entire estates are registered from paying the revenue due to Government from such lands.

4 to 21. [Rules as to sale of lands paying Government revenue and assessment of land-revenue on divided lands: prohibition of purchase of lands by Europeans or by native officers or private servants of Collectors.] Rep., Mad. Act II of 1864, s. 65.

### MADRAS REGULATION XXIX OF 1802.<sup>1</sup>

[THE MADRAS KARNAMS REGULATION, 1802.]

[13th July, 1802.]

A Regulation for establishing the Office of Karnam, and defining the Duties of the said Office, in the British Territories subject to the Presidency of Fort St. George.

2 \* \* \* \* The office of karnam being still of great importance to the preservation of the rights and property of the people, it is expedient to provide for the continuance of that office on an efficient establishment, for the purpose of facilitating the decision of suits in the Courts of Judicature, of preventing the diminution of the fixed revenue of the Government, and of securing individual persons from injustice, by enabling the public officers of Government and the Courts of Judicature to procure authentic information and accounts. In conformity, therefore, to the ancient usages of the country, the following rules have been enacted for the establishment of the office of karnam :—

Establish-  
ment of office  
of karnam.

2. An office of record, under a karnam, shall be established in each village of a district where the land-revenue may have been permanently assessed on

<sup>1</sup> Short title, "The Madras Karnams Regulation, 1802"—see the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. It was declared by s. 7, cl. 1, of Mad. Reg. II of 1806, that the provisions of ss. 1 to 10 and 13 to 16 of this Regulation should not extend to districts of which the revenue was not permanently settled, and rules for the duties of karnams in such districts were enacted in s. 7, cl. 2, of the Reg. of 1806, in addition to those prescribed by ss. 11, 12, 17 and 18 of Mad. Reg. XXIX of 1802. Further duties are assigned to karnams by Mad. Regs. V and XI of 1816, printed *infra*.

Mad. Reg. XXIX of 1802 ceases to be in force in estates where the Madras Proprietary Estates' Village-service Act, 1894 (Mad. Act II of 1894), is extended to the office of village-accountant—see s. 3 of that Act, printed *infra*.

On and after the commencement of Mad. Act III of 1895 (which, however, does not apply to Scheduled Districts), no portion of this Regulation shall continue to apply to any local area which is not a permanently settled proprietary estate—see s. 2 (1) of the Act, *infra*.

<sup>2</sup> The first portion of the preamble was repealed by Act XII of 1876.

the lands; provided the revenues arising from such village, inclusively of charges, may amount to the annual sum of four hundred pagodas or upwards. But in villages where the annual revenue may be less than the said sum of four hundred pagodas, it shall be competent for one karnam to superintend and discharge the duties of the karnam's office in two or more villages.

3. The nomination of persons to the office of karnam shall be in the actual proprietors of land. Nomination to office.

4. [Appointment to office.] Rep., Act XII of 1876.

5. Karnams shall not be dismissed from their offices except by the sentence of a Court of Judicature. Karnams how dismissible.

6. Where vacancies may occur in the office of karnam, either by death or dismission, the landholder concerned shall report the event to the Collector, and shall within thirty days nominate a proper person to fill the vacancy, acquainting the Collector with the name of such person. Vacancies how supplied.

7. In filling vacancies in the office of the karnam, the heirs of the preceding karnam shall be chosen by the landholders concerned, except in cases of incapacity, on proof of which before the Judge of the zila the said landholders shall be free to exercise their discretion in the nomination of persons to fill vacancies. Office of karnam hereditary. Exception.

8. Proprietors of land shall deposit in the Adalat of the zila, in the head kachari of the Collector, and in the principal kachari of each zamindari or estate authentic lists containing the names of the karnams on their respective estates, and the names of the villages of which the said karnams may have been appointed to keep the accounts. List of karnams, and of villages under each.

9. It shall be competent for the Board of Revenue at the Presidency to authorize, through the channel of the Collectors, the proprietors of land to reduce the number of karnams in all cases where such reductions may appear to be advisable to the said Board. Board of Revenue may reduce number of karnams.

10. Proprietors of land neglecting to appoint karnams shall be liable to fine for such neglect, at the discretion of the Adalat of the zila. Penalty for neglecting to appoint karnams.

11. *First.*—Karnams duly appointed to their offices shall keep complete registers of the extent of the lands in each village, specifying the boundaries and landmarks, and showing their appropriation: namely, arable, cultivated and uncultivated, pasture, occupied for houses, gardens, rivers, tanks, springs or wells, waste in hills, jungle or rocks. Karnams to keep registers of lands in each village.

*Second.*—The said registers shall specify the extent and description of land in each village exempt from paying revenue to Government at the time when the permanent assessment was fixed, the purposes to which the exempted lands are appropriated, and the names of the holders of such lands. Registers to specify lands exempt from payment of revenue by established usage; and lands exempt from payment of revenue by grants or sanads.

*Third.*—The said registers shall specify the lands in each village exempted by grants or sanads from paying revenue to Government, the purposes for which such lands were granted, the condition of the grant, and the names of the holders.

Karnams to report death of incumbents on such land.

Their duty as to crop.

Gross produce of all lands, with particulars as to its division, to be registered. Amount of fees and méras paid in a village to be registered.

Karnams to keep registers of lands paying money-rent ;

to register lands cultivated in gardens ;

to register quit-rents and ready-money payments ; and price current of grain ; and pās-sengors reported by village-watcher.

Rules for keeping entire accounts and records of office of karnam.

*Fourth.*—Karnams shall report to the proprietors of lands the death of all incumbents on lands exempted from the payment of revenue to Government.

*Fifth.*—Karnams shall be present at the estimation of the crop, at the beating out, and at the measuring of the grain.

*Sixth.*—Karnams shall keep true accounts of the gross produce of all lands, whether paying revenue to Government or not ; where the produce of such lands may be shared between the proprietors and the cultivators, karnams, shall also enter in their registers the quantity of grain so divided, as well as the rates of division.

*Seventh.*—Karnams shall enter in their registers the rates and amount of all fees and méras<sup>1</sup> appropriated to the officers and servants of the villages, specifying whether such fees or méras are payable from the gross produce of the entire lands, from the proprietor's share or from the raiyat's share.

*Eighth.*—Where lands may be liable to pay money-rents, karnams shall keep registers of the extent of the land cultivated, and of the rates and amount of the money-rents.

*Ninth.*—Karnams shall keep registers of the land cultivated in gardens, and of the rates and amount of the division of the produce of such lands, when the produce may be divided in kind.

*Tenth.*—Karnams shall keep registers of the quit-rent and ready-money payments collected in each village.

*Eleventh.*—Karnams shall keep monthly registers of the price of all kinds of grain.

*Twelfth.*—Karnams shall keep registers of strangers passing or repassing as reported to him by the village-watcher, and such registers shall at all times be open to the inspection of the officers of police.

*Thirteenth.*—Karnams shall keep the accounts which are to exhibit the actual revenue and charges of the village, and the records of their offices entire ; and shall not carry such accounts or records out of their respective villages, unless required to do so by competent authority. Karnams secreting the accounts or records of their offices, or transporting them beyond their respective villages, except by due authority, shall be liable to fine and imprisonment until the accounts and records may be produced ; but proprietors or farmers of lands shall at all times have free access to the accounts and records, with power to take copies of them.

<sup>1</sup> *Méra* means, according to Wilson, " a portion of the crop given as a perquisite to the holders of a proprietary right in the village-lands, or to the hereditary village-officers and servants, out of the common stock from the threshing-floor."

**12.** Karnams shall produce, whenever required, by the proprietor or farmer of the lands, by the Collector or by the Adálat of the zila, the records and accounts relating to the lands, produce, revenue and charges of their villages respectively.

**13.** Collectors shall not demand from karnams their accounts or records for any other purpose than that of assessing the public revenue upon the portions of estates which it may be necessary to divide, in consequence of attachment for arrears of revenue, or in pursuance of a decree of a Court of Judicature, or for the accommodation of the joint proprietors of lands; provided that this section shall not be construed to preclude Collectors or other public officers from demanding from karnams the information required for the due administration of the revenues of such lands as may escheat to Government or remain khás after attachment for arrears of revenue.

**14.** On complaints by proprietors of land, the Adálat of the several zilas shall have authority to make orders to prohibit the Collectors respectively from demanding the attendance of the karnams, the accounts or information; and to levy fines from such Collectors for persisting to demand their attendance, accounts or information for any other purposes than those authorized by this Regulation.

**15.** Where Collectors or Courts of Judicature may have occasion to require the attendance of a karnam, a notice shall be delivered to the said karnam specifying the time and place of attendance, the nature of the accounts required and the persons before whom such accounts shall be examined.

**16.** Where karnams may refuse to comply, or may unreasonably delay to comply, with such notice duly communicated, it shall be competent for the Adálat to punish such karnams by fine or imprisonment until the accounts or information required be produced.

**17.** Karnams shall be compellable to swear to the truth of such accounts or information as they may furnish before a Court of Judicature; and it shall be competent for the Court to grant a commission for the purpose of receiving the depositions of such karnams as it may be necessary to examine at a distance from the Court; provided that the said commission shall contain the name of each karnam to be examined on oath.

**18.** Where karnams may deliver false or fabricated or mutilated accounts or information, after having been duly sworn, the Judge of the Adálat shall commit such karnams to be tried for the crime of perjury \* \* \*.<sup>1</sup>

**19.** Proprietors of land or other persons associating themselves with karnams for the purpose of producing or procuring false or fabricated or mutilated accounts or information shall also be committed by the Judge of the Adálat for trial \* \* \* for subornation of perjury.

<sup>1</sup> The words "before the Court of Circuit" were repealed by Act XII of 1876.

Karnams to produce records when required by proprietor, Collector or Adálat.

When Collectors or other public officers may demand karnams' accounts or records.

Power to prohibit Collectors, in certain cases, from making such demands.

Forms to be observed in requiring attendance of karnams.

Punishment for refusal or wilful delay on part of karnams.

Karnams compellable to swear to accounts.

Penalty for furnishing false accounts.

Proprietors of land conniving thereat how punishable.

MADRAS REGULATION I OF 1803.<sup>1</sup>

[THE MADRAS BOARD OF REVENUE REGULATION, 1803.]

[1st January, 1803.]

A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.

WHEREAS it has hitherto been usual for the Board of Revenue to exercise judicial authority in the determination of certain cases of a civil nature appealed from the decision of the Collectors, who were entrusted with the administration of the revenues and the distribution of justice in their respective districts; and whereas Courts of Judicature have been established for the purpose of administering justice in all cases, civil and criminal, it is expedient that the judicial authority heretofore exercised by the Board of Revenue should be formally abrogated in those districts where Zila Courts have been established; and whereas it is important to the security of the persons and property of those for the protection of whom the said Courts have been established, that the powers and authorities entrusted to the said Board of Revenue in respect of the executive administration of the revenues, should be defined and published; wherefore the following Regulations have been passed by the Governor in Council.

**2 & 3.** [Oath to be taken by members of Board: consequences of violation thereof.] *Rep., Act X of 1873.*

**4.** The duties of the Board of Revenue have been, and hereby are declared to be, the general superintendence of the revenues from whatever source they may arise, and the recommendation of such propositions to the Governor in Council as in their judgment may be calculated to augment or improve those revenues.

**5.** The Board of Revenue have had, and are hereby declared to have authority to superintend and control all persons employed in the executive administration of the public revenue, all zamíndárs or proprietors of land paying revenue, and all farmers, securities, raiyats or other persons concerned in, or responsible for, any part of the revenue of Government, as far as the said superintendence and control may relate to the executive administration of the revenue under the regulations now enacted, or to be hereafter enacted.

**6.** The Board of Revenue shall assemble two days, at the least, in every week for the despatch of business.

**7.** [Quorum.] *Rep., Mad. Act I of 1894, s. 1.*

<sup>1</sup> Short title, "The Madras Board of Revenue Regulation, 1803"—see the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation has been declared to be in force in the whole of the Madras Presidency except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. As to arrears of revenue recoverable under Mad. Act II of 1864, this Regulation is inoperative—see s. 62 of that Act, printed *infra*.

8. The Board of Revenue shall use, in the transaction of official business a circular seal two inches in diameter, bearing in the English and Persian languages this inscription : " The seal of the Board of Revenue " ; and no other seal shall be used by the Board of Revenue.

Board to use official seal. Inscription thereof.

9. The Board of Revenue shall annually (or as often as they may be required) lay before the Governor in Council a general report of their proceedings, to be drawn out summarily, and under the distinct heads of districts, with reference to the dates of the consultations in which each subject is contained, which subject shall be respectively continued in each successive report from the date of the report preceding.

Board's proceedings to be reported to Government as often as required.

10. The Board of Revenue shall keep three separate sets of their proceedings, one set for the broken periods to accompany the general report above ordered ; a second set to be sent to England complete by the first despatch after the expiration of each year, and a third set to be kept in the office. The Board of Revenue shall prepare and annex a copious index to the second and third sets.

To keep three sets of proceedings.

11. The Board of Revenue shall invariably acknowledge the receipt of all letters from the Governor in Council, reciting in abstract the substance of the letter so acknowledged, and the steps they have taken in consequence.

Acknowledgment of receipt of letters from Government.

12. The Board of Revenue shall be careful to preserve their records complete, and shall transmit to the Governor in Council, with the whole set of their proceedings, a list of all records, and of all papers not entered on the records.

Records to be preserved complete.

13. The members of the Board of Revenue shall not have copies of any part of the records, nor remove any of the records from the office of the Board of Revenue. Members of the Board of Revenue wishing to refer to the records shall cause such records to be brought into the meeting-room of the Board of Revenue, and shall peruse them there.

Records not to be copied or removed from office.

14. When the Board of Revenue may have occasion to refer to the records of Government, they shall apply for such records to the Governor in Council.

Reference to Government records.

15. The Board of Revenue shall accompany all papers in the Native languages which they may transmit to Government with translations in English.

Native paper to be accompanied with translations. All propositions to be submitted through president.

16. All propositions or suggestions intended by individual members for the consideration of the Board shall be submitted through the channel of the president.

17. Where new propositions may arise during the consideration of a question, such propositions shall not be discussed until the previous question shall have been disposed of.

No new propositions discussed till previous question disposed of. Majority to decide.

18. Questions at the Board of Revenue shall be determined by a majority, and the resolutions of the majority shall be the resolution of the Board, and shall be carried into execution accordingly.

Opinions of members how taken.

**19.** In deliberations, where questions may be put to the vote, the opinion of the junior member shall be first recorded, and then the opinions of the other members, according to their rank upwards.

President to have casting vote.

**20.** Where a difference of opinion may happen, and where votes may be equally divided, the president shall have the casting vote; but the proceedings on any question shall, at the motion of any member, be referred to the Governor in Council.

Dissents from majority when recorded.

**21.** A member dissenting from the majority of the Board may record his dissent at the time, or at a future meeting; but no minute shall be recorded on the proceedings of the day unless delivered in before the adjournment of the Board, nor shall any alteration be made in opinions once recorded without the consent of all the members of the Board.

Rule in referring matters for decision of Government.

**22.** The Board of Revenue shall accompany all references made to the Governor in Council, of their proceedings on matters requiring the decision of Government, with a letter stating summarily the nature of the subject submitted, and with distinct opinions and recommendations on each subject for the consideration and decision of the Governor in Council.

Power to entrust specific duties to particular members.

**23.** In cases where it may be necessary for the despatch of business, the Board of Revenue may commit the charge of any specific duty to a particular member, but in no other case shall the members individually exercise any authority.

Powers of president with respect to meetings.

**24.** The president of the Board of Revenue shall have authority to appoint and to change the days of meeting, to summon extra meetings of the members, and to postpone the regular meetings (provided, nevertheless, that two meetings be always held in one week), and to adjourn the Board at such hour as he may deem expedient.

Orders he may issue during intervals of meeting.

**25.** The president, during the intervals of the meetings of the Board, may issue, of his own authority, such occasional or subsidiary orders as shall, in his opinion, be necessary for carrying into execution any existing resolution of the Board; to summon any person to attend the next meeting; and to issue orders to prepare materials for the consideration of the Board.

Selection of business.

**26.** The president shall regulate and prescribe the selection and arrangement of the business to be brought before the Board at each meeting.

All resolutions proposed by president.

**27.** The president shall propose resolutions on all papers read for the consideration of the Board, and may state specific questions for the opinion of the members on the business before the Board.

His powers in cases of emergency.

**28.** The president shall have authority in all cases of emergency, while no Board may be sitting, to decide questions requiring an immediate decision, and to issue orders on all references requiring an immediate reply.

**29.** [*Provision for judicial investigations where there is no Zila Court.*] *Rep., Mad. Reg. II of 1806.*

May have copies of any records, or records themselves.

**30.** The president shall have authority to require copies of any records, or to have the records themselves, sent to him, for his perusal.

**31.** The president shall have authority to call on Collectors or Assistant Collectors for papers, accounts, or for any information he may require on the revenues of the district under such Collector or Assistant Collector.

President may call on Collectors for accounts.

**32.** Whatever authority is hereby declared to be vested in the president shall be vested in the acting president for the time being ; and in case of the absence of the president the senior member present shall preside, and shall be vested with all the powers of the president.

Senior member to preside in absence of president.

**33.** The Board of Revenue shall be responsible that the executive officers employed under them discharge the duties of their respective stations with assiduity, and shall require them to pay a ready and implicit obedience to all orders and regulations, and shall punish neglect in the subordinate officers of revenue, at their discretion, according to the powers vested in them for that purpose.

Board responsible for discharge of duties of subordinate officers.

**34.** [*Board authorized to summon Collectors, etc., to the Presidency, and to fine them.*] *Rep., Mad. Reg. V of 1828, s. 4.*

**35.** The Board of Revenue shall be careful that the settlement of the revenues shall be made at as early a period of time after the commencement of the Fasli year as may be practicable, and shall report any delay in the completion of the settlement in the subordinate officers under them to the Governor in Council.

Settlement of revenues when made.

**36.** The Board of Revenue shall submit, as soon as may be practicable, to the consideration of the Governor in Council, all settlements of the public revenue, in cases where the revenue may not have been permanently fixed ; and such settlements shall not be considered to be valid until confirmed by the authority of the Governor in Council.

Settlements to be submitted to Government, and not to be valid till confirmed.

**37.** In districts where the revenue has not been permanently fixed, it shall be the duty of the Board of Revenue to investigate and ascertain the grounds of the temporary settlements effected by the Collectors, to compare the resources of the provinces with the revenue derived from them ; to prevent by early and constant vigilance, the impairment of the public revenue through the negligence or ignorance of the inferior officers ; and to guard against encroachments on the rights of the people, or on the permanent sources of prosperity, which may ensue from an excess of zeal on the part of the Revenue officers.

Board to ascertain grounds of temporary settlements ; to prevent detriment to revenue through negligence ; to guard against excess of zeal ;

**38.** The Board of Revenue shall be careful that the revenues are realized according to the stipulated periods of payments.

to be careful that revenues are realized.

**39.** [*Board to investigate charges against Collectors and their officers, where no Zila Court exists.*] *Rep., Mad. Reg. II of 1806.*

**40.** The members of the Board of Revenue shall not be concerned, directly or indirectly, in trade or commerce, or in houses of agency, or be concerned in the direction or management of banks, or in transactions for borrowing or lending money with Native officers under the Revenue Department, or with the zamindárs, proprietors of land, renters or other persons responsible for the revenue.

Members of Board not to trade or be engaged in money transactions with Natives concerned in revenues.



**41.** [*Farming of lands to, and taking of security from, Europeans prohibited.*] *Rep., Mad. Act II of 1869.*

Board not to make or to confirm grants of land.

**42.** The Board of Revenue shall not grant or confirm grants or shrotri-yams magtas, fixed rents, inam or free-gift lands, or confirm the succession of persons to such lands, without the authority of the Governor in Council.

**43.** [*The Board not to continue pensions without authority.*] *Rep., Act XXIII of 1871.*

Rules to be observed by Board on death, etc., of Collectors.

**44 to 47.** [*Judicial powers of Board of Revenue in districts where no Zila Courts were established.*] *Rep., Mad. Reg. II of 1806.*

**48.** The Board of Revenue shall provide that on the death, resignation or removal of Collectors care be taken of the public money and records by the successors to such Collectors, or by their Assistants. The Board of Revenue shall not permit persons resigning or removed from their station to depart until notification of their having delivered over charge of such money and records to their successors shall have been received.

Procedure where deputation of member, or any other person, may be necessary.

**49.** Where the Board of Revenue may consider the deputation of a member of their Board, or of any other person, necessary for purposes connected with the administration of the revenue, they shall report such necessity to the Governor in Council, and wait the orders of the Governor in Council previously to deputation.

Deputation of Assistant Collector on service within limits of his collectorship.

**50.** The Board of Revenue shall nevertheless have authority to order Assistant Collectors to be deputed on any service they may deem expedient, within the limits of the collectorship to which such Assistant Collector may be attached, but shall not depute such assistants into districts to which they are not attached without the previous authority of the Governor in Council.

Disbursements for takkavi.

**51.** The Board of Revenue shall recommend to the Governor in Council disbursements of money for takkavi, for repairs, or for improvements in agriculture, where they shall be of opinion that the disbursement of such money will be beneficial to the public revenue.

Board to require economy and production of vouchers.

**52.** The Board of Revenue shall require in the executive officers under their authority an attention to the principles of economy in the disbursement of the public money, and shall require the production of authentic and satisfactory vouchers for all disbursements made in repairs and in improvements.

Applications for increase of expense to be explained.

**53.** The Board of Revenue shall require satisfactory reasons and explanations in support of any increase of expense applied for previously to referring such increase for sanction to the Governor in Council, and shall at all times submit their opinions on the amount of the increase of disbursements required to be made.

Mua'in-zabitas to be annually revised by Board, and not to be confirmed without authority.

**54.** The Board of Revenue shall annually revise the mua'in-zabitas of the Collectors, and shall submit such mua'in-zabitas for the confirmation of the Governor in Council. It shall not be competent for the Board of Revenue to confirm the establishments of Collectors without authority from the Governor in Council being first had and obtained.

55. Where the Board of Revenue may consider a remission of the amount of an existing settlement to be requisite, or a remission of balances to be conducive to the public good, they shall submit the circumstances of the case, and the amount of the remission, to the consideration of the Governor in Council.

Procedure where remissions may be necessary.

56. The Board of Revenue shall suspend the rigorous collection of the revenues according to the stipulated periods where satisfactory evidence of the necessity of a temporary suspension may be stated to them; but the Board of Revenue shall not extend the period of such suspension beyond the current Fasli without the previous authority of the Governor in Council.

Power to suspend rigorous collection of revenue.

57. The Board of Revenue shall direct Collectors of districts, where a permanent settlement of the land-revenue may have been concluded, to attach the lands of proprietors who may have fallen in arrear, and shall require Collectors to dispose of the whole, or a part, of such lands, as the case may be, for the recovery of such arrear, in the mode and manner prescribed in the regulations.

Attachment and sale of lands for arrears when revenue accrues.

58. [*Time when lands may be sold in satisfaction of decrees for arrears.*] *Rep., Mad. Reg. III of 1830, s. 3.*

## MADRAS REGULATION II OF 1803.<sup>1</sup>

[THE MADRAS COLLECTORS REGULATION, 1803.]

[*1st January, 1803.*]

A Regulation for describing and determining the conduct to be observed by Collectors in certain cases.

WHEREAS under the system of internal government established for the administration of the public revenue, and for the security of persons and property, individuals should have the means of ascertaining and knowing the regulations passed for their benefit; and whereas the said system further requires that the power and authority heretofore vested in the immediate Collectors of the revenue should be curtailed; wherefore the following Regulation has been passed for the purpose of defining the authority committed to Collectors, and for describing the modes of procedure required in the discharge of their duty.

2. The collection of the public revenue derived from land-tax, from duties on commodities by sea and land, from salt, from the excise on spirituous liquors or for other articles of taxation shall be entrusted to Collectors, who shall be covenanted civil servants of the Company.

Collection of revenues entrusted to covenanted civil servants.

<sup>1</sup> Short title, "The Madras Collectors Regulation, 1803"—see the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. Printed, General Acts, Vol. II. As to arrears of revenue recoverable under Mad. Act II of 1864, this Regulation is inoperative— See s. 62 of that Act, *infra*.

**3, 4.** [*Oath to be taken by Collectors : consequences of violation thereof.*] *Rep., Act XII of 1873.*

Collectors to be under orders of Board of Revenue.

**5.** Collectors shall be under the immediate control of the Board of Revenue, and shall obey all orders communicated to them by the authority of that Board.

Papers and accounts to be furnished to all persons authorized to require them. All acts of Collectors to be public. Principles on which revenues are to be administered.

**6.** Collectors shall furnish such papers or accounts relating to the revenues under their charge as may be required by the Board of Revenue, the President of the Board of Revenue, by the Accountant General, or by any other public officer authorized to make such requisition.

**7.** All acts and proceedings of Collectors shall be held and done publicly ; that is to say, in open kacharis accessible to all persons.

**8.** Collectors shall administer the public revenues to the advantage of the State, the happiness of the people, and the prosperity of the country ; and shall suggest such propositions to the Board of Revenue as, in their judgment, may be calculated to augment and improve those revenues.

Collectors to have control over all persons employed under them, and over persons paying revenue or otherwise concerned in revenue.

**9.** Collectors have had, and are hereby declared to have, authority to superintend and control, under the orders of the Board of Revenue, all persons employed in the executive administration of the public revenue, all zamindars or proprietors of land paying revenue, and all farmers, securities, raiyats or other persons concerned in, or responsible for, any part of the revenue to Government, as far as the said superintendence and control may relate to the executive administration of the revenue under the regulations now enacted, or to be hereafter enacted.

**10.** [*Seal of Collector.*] *Rep., Mad. Act VI of 1865.*

Collectors to transmit diaries to Board.

**11.** Collectors shall keep diaries of their proceedings in the English language. The diaries shall contain a record of every official transaction of the Collector, and shall be forwarded to the Board of Revenue for each month, on the fifteenth day of the succeeding month.

Public money, how to be kept.

**12.** Collectors shall keep the public money in a strong chest secured with two locks of different constructions : the key of one lock shall be kept by the Collector, and the key of the other lock shall remain in the possession of the public shroff.

Jamabandi and kistbandi of land-revenue, permanently assessed to be furnished to Board. An account of other items of revenue to be subjoined.

**13.** Collectors of revenue in districts where a permanent assessment of the lands may have been fixed shall transmit to the Board of Revenue, within one month after the expiration of each Faslí year, in a form to be approved by the Board of Revenue, a jamabandi and kistbandi statement of the permanent revenue assessed on each zamindari or estate into which the districts have been divided or sub-divided by the operation of the Regulations, with an account subjoined of the amount of other items of revenue, whether rented or under the Collector's management ; noting in the one case the amount of the rent, and in the other the expected amount of collections.

Collections of revenue to be made regularly.

**14.** Collectors shall be careful that proprietors of land on whose estates the land-revenue has been permanently fixed, and farmers of land, regularly discharge their taxes and rents agreeably to the kistbandi ; and, in the event

of a proprietor or farmer of land falling in arrear, Collectors shall proceed to recover such arrear in the mode prescribed by the Regulations already passed, or to be hereafter passed for that purpose.

15. Collectors shall furnish the person or persons deputed by them to attach estates in pursuance of a decree of a Court of Judicature, or for an arrear of revenue, with sanads of appointment, and with written instructions under their seal and signature.

Persons attaching estates to be furnished with written powers.

16. Collectors shall apportion the assessment on lands which may be ordered to be disposed of by public sale for the discharge of arrears of revenue, or in pursuance of a decree of a Court of Judicature, or which may be transferred in the manner allowed by the Regulations, from one individual to another.

Apportionment of assessment on all lands to be sold or transferred.

17. Collectors shall be held responsible for justly and equitably apportioning the permanent assessment on all sub-divisions of estates, and the amount of such assessment shall be regulated at a rate proportionate to the value which such sub-divisions of estates bear to the gross assets of the whole estates.

Collectors to be responsible for apportioning assessment on sub-divisions ;

18. Collectors, at the time they transmit statements of the public assessment so apportioned on sub-divisions of estates for the consideration of the Board of Revenue, shall furnish the proprietors of the estates in question with the amount of the assessment so apportioned ; and, where the proprietors may object and appeal from the assessment proposed by the Collectors for the sub-divisions of the said estate, Collectors shall immediately forward the same, with their remarks, to the Board of Revenue.

to furnish proprietors with amount so apportioned. Appeal therefrom to be forwarded to Board.

19. Collectors shall be careful to specify in the conditions of sale (exclusively of the general conditions of sale as prescribed by the Regulations) any particular obligation which may happen to fall on the purchaser of a sub-division of, or of an entire estate declared for sale.

Conditions of sale to specify particular obligations not included in general conditions.

20. Collectors, on receipt of a decree of a Court of Judicature ordering land paying revenue to Government to be sold, shall proceed to attach a sufficient portion of the said lands to answer the amount of the decree, in such mode as may be prescribed for recovery of arrears of revenue by the Regulations, and shall immediately report such attachment to the Board of Revenue.

Attachments of land to be reported to Board.

21. In attaching portions of estates for arrears of revenue, or in consequence of a decree of a Court of Judicature, Collectors shall be careful to form the sub-divisions compact, selecting such villages and lands as may be situated contiguously to each other. Collectors shall moreover have in view the nature of the soil and available resources of the different lands, and shall be careful to include, as nearly as may be practicable, equal portions of land with contracted means of improvement, and of lands with extensive means of improvement.

Rules to be observed in attaching portions of estates.

22. In forming sub-divisions of estates, Collectors shall be careful to pre-serve all the lands watered by one tank or water-course in the same

In forming sub-divisions, lands

watered by one tank &c. to be kept in same sub-division.

Registers of transfers of land.

Register of alienated lands.

Collection of revenue of khas lands.

Levy of assessment for payment of police.

Collection of revenue, exclusive of land-tax.

Receipts for payments of revenue.

Copy of register to be sent monthly to Board. Officers employed under Collectors, in collection of revenue, to grant similar receipts.

sub-division; and, where it may be necessary to deviate from this rule, Collectors shall fully explain such necessity to the Board of Revenue, and wait the orders of the Board on their reference, previously to concluding the arrangement.

**23.** Collectors shall keep registers of all sub-divisions of estates, and of all transfers of landed property, in a form to be submitted to, and to be approved by, the Board of Revenue.

**24.** Collectors shall keep, in a form to be approved by the Board of Revenue, registers of all alienated lands paying revenue to Government, or exempt from the payment of public revenue. The registers shall be kept in the mode and manner prescribed by the Regulations already passed, or to be passed, for that purpose.

**25.** [*Estates of disqualified landholders how managed.*] *Rep., Mad. Act I of 1902.*

**26.** Collectors shall collect the revenue arising from lands held khas in such manner as may be directed by the Board of Revenue.

**27 to 29.** [*Procedure for recovery of lands held under invalid titles.*] *Rep., Act XII of 1876.*

**30.** [*Lands for pensioners and invalids.*] *Rep., Act XXIII of 1871.*

**31.** Collectors shall collect the assessments that may be ordered to be levied for the payment of the department of police agreeably to the Regulations enacted for that purpose, or agreeably to the orders of the Board of Revenue, in cases where the said Board may have authority to issue such orders.

**32.** Collectors shall collect the revenue arising from sayar, salt, spirituous liquors or from other sources, in the manner prescribed by the Regulations, or in such manner as may be directed by the Board of Revenue in cases subject to their authority.

**33.** Collectors shall grant receipts for all payments made into their treasury on account of the public revenue; which receipts shall specify the date of payment, the coin in which payment may be made, and the amount of such receipt shall be written in the English language and in the language of the zila, and shall be registered and numbered in both languages by the keepers of the records; the date of registry shall be indorsed on the back of each receipt.

**34.** Collectors shall transmit, on the fifteenth of each month, to the Board of Revenue, copies of the register of receipts for the preceding month.

**35.** Collectors shall compel the tahsildárs, or other officers employed under them in the collection of the revenue, to grant receipts for moneys received by them, and to transmit monthly registers of the receipts so granted; the receipts granted by the tahsildárs, or other officers employed in the collection of money, shall contain all the items above specified.

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Collectors shall employ none but the public registered servants in the conduct of public business, and Collectors shall not employ public registered servants in the transaction of private business.

Public servants not to be employed in private business.

37. Collectors shall have authority to enforce obedience to their orders, by levying a fine upon public servants disobeying or neglecting such orders, provided that in no instance the amount of the fine shall exceed one month's pay.<sup>2</sup>

Authority to fine public servants.

38. In districts where the land-tax may not have been permanently fixed, Collectors shall investigate, with care and with attention, the rules which have immemorially guided the assessment of the public revenue.

Where land-tax is not fixed, rates of assessment to be investigated.

39. Collectors shall state the result of their investigation to the Board of Revenue, and shall regulate their demands on the raiyats on principles of moderation, and with a just regard to the rights of Government, to the rights of the people, and to the prosperity of the country.

Result to be reported to Board.

40. Collectors, in districts where the rent may not have been permanently fixed, shall not increase or diminish the rates of waram, or rates of quit-rent, without permission being first had and obtained from the Board of Revenue for that purpose.

Rates of waram or of quit-rent not to be altered without permission.

41. In districts where the land-tax may not have been permanently fixed, Collectors shall report to the Board of Revenue all unauthorized alienations of land, with every circumstance relating to such land; but Collectors shall not resume alienated lands without authority from the Board of Revenue.

Unauthorized alienations of land to be reported to Board.

42. [Removal of proprietors.] *Rep., Mad. Reg. II of 1806.*

43. Collectors shall not grant kauls of any description without authority from the Board of Revenue; and all kauls granted by Collectors shall contain the dates of the authority of that Board.

Collectors not to grant kauls without authority;

44. Collectors shall not in any case authorize the alienation of land without authority from the Board of Revenue.

Cannot authorize alienation of land.

45 & 46. [Requisition for military.] *Rep., Mad. Reg. II of 1806.*

47 to 55. [Judicial powers of Collector in districts where no Zila Courts were established.] *Rep., Mad. Reg. II of 1806.*

56 to 58. [Magisterial powers of Collectors in districts where no Zila Courts were established.] *Rep., Mad. Reg. II of 1806.*

59. Collectors shall not make disbursements of public money for advances for cultivation, or repairs of tanks, or for any other purposes, without having previously obtained, through the channel of the Board of Revenue, the authority of the Governor in Council for such disbursement.

Collectors to make no advances without authority of Government.

<sup>1</sup> The first portion of this section, containing obsolete matter, was repealed by Mad. Act II of 1869.

<sup>2</sup> See Mad. Reg. IX of 1822, *infra*.

Collectors and Assistants not to be concerned in farm of revenue ;

**60.** Collectors, and Assistants to Collectors, shall not be concerned, directly or indirectly, in any farm of the public revenue, either as renters, securities or otherwise. Collectors, or Assistants to Collectors, shall not permit their Native servants to be concerned, directly or indirectly, in any rent or farm of the public revenue, or to be security for any farmer or renter of lands on which the rent may not have been permanently fixed.

not to lend money to persons concerned in revenue ;

**61.** Collectors, and Assistants to Collectors, shall not lend money, directly or indirectly, to proprietors of land, renters or persons responsible for the revenue, or in any way concerned in the management of the public revenue.

**62.** [*Farming of lands to, and taking security from, Europeans prohibited.*] *Rep., Mad. Act II of 1869.*

not to occupy grounds or to erect buildings without sanction ;  
not to trade ;

**63.** Collectors, and Assistants to Collectors, shall not occupy ground nor erect buildings thereon, without the sanction of the Board of Revenue.

**64.** Collectors, and Assistants to Collectors, shall not exercise or carry on trade or commerce, directly or indirectly, and shall not be engaged in any bank or house of agency.

not to publish any thing which may affect intercourse with foreign States.

**65.** Collectors shall not publish proclamations or orders which may in any shape affect the intercourse of the British nation with foreign States, without an express order from the Governor in Council for that purpose.

Applications removed or for leave of absence.

**66.** Collectors, and Assistants to Collectors, shall (in cases requiring it) apply to the Board of Revenue for temporary leave of absence from their station. Collectors, or Assistants to Collectors, shall not absent themselves from their stations without having previously obtained the permission of the Board of Revenue. In the event of severe illness compelling Collectors to quit their stations without such authority, on the affidavit of medical persons with respect to the necessity of such absence, they shall deliver charge of their districts to the head Assistant on the spot, and shall report the circumstance without delay to the Board of Revenue.

Charge in Collector's absence.

**67.** In the absence of Collectors, the senior Assistant on the spot shall take charge of the public business.

Collectors removed or resigning, to deliver public documents to their successors.

**68.** On the resignation or removal of Collectors, they shall deliver to their successors or Assistants every public account and document, with all original letters received, and attested copies of all letters sent, relative to their charges respectively. Collectors shall certify officially duplicate lists of such accounts and documents, and shall deliver one list to their successors or Assistants, and shall forward the other list to the Board of Revenue.

Collectors receiving charge to

**69.** Collectors on receiving charge shall count the balance of cash delivered to them, and shall grant receipts for the amount in duplicate ; one

1803: Mad. Reg. II.] Collectors.  
 1804: Mad. Reg. V.] Court of Wards.  
 1806: Mad. Reg. II.] Courts of Adalat.

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receipt shall be retained by the person delivering over charge, and the other count balance of cash and grant receipts in duplicate.  
 shall be transmitted to the Board of Revenue.

# MADRAS REGULATION V OF 1804.<sup>1</sup>

[THE MADRAS COURT OF WARDS REGULATION, 1804.]

[ 28th August, 1804.]

A Regulation for constituting a Court of Wards, for declaring the powers vested in the said Court, and for defining the Rules under which those powers are to be exercised.

[Rep. except as regards the Scheduled Districts, Mad. Act I of 1902. Printed *infra*.]

# MADRAS REGULATION II OF 1806.<sup>2</sup>

[14th February, 1806.]

A Regulation for establishing Courts of Adalat in the several districts subject to the Presidency of Fort St. George, in which a permanent settlement of the land-revenue has not been introduced, and for defining the powers and prescribing the duties of the Judicial and Revenue Authorities respectively in those districts.

[Rep., except as regards the Scheduled Districts, Mad. Act III of 1895. Printed, *infra*.]

[Section 7, cl. (2), is the only portion now in force in these districts.]

<sup>1</sup> Short title, "The Madras Court of Wards Regulation, 1804"—see the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was repealed in the whole of the Madras Presidency, except the Scheduled Districts, by Madras Act I of 1902.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid*, p. 722.

<sup>2</sup> The Regulation has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid*, p. 722.



MADRAS REGULATION VII OF 1808.<sup>1</sup>

[THE MADRAS STATE-OFFENCES REGULATION, 1808.]

[1st April, 1808.]

A Regulation for declaring the powers of the [Governor General in Council]<sup>2</sup> to provide for the immediate punishment of certain offences against the State, by the sentence of courts-martial.

WHEREAS, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that during the existence of any war in which the British Government in India may be engaged with any Power whatever, as well as during the existence of open rebellion against the authority of the Government in any part of the British territories subject to the Government of the Presidency of Fort St. George, the [Governor General in Council]<sup>2</sup> shall declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions, and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified, the following Regulation has been enacted by the Governor in Council to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort St. George \* \* \*<sup>3</sup>

Governor  
General  
in Council  
empowered to  
establish  
martial law;

and to direct  
trial by

2. The [Governor General in Council] is hereby declared to be empowered to establish martial law within the territories subject to the Government of the Presidency of Fort St. George, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government in any part of the territories aforesaid; and also to direct the immediate trial by Courts-martial of all persons owing allegiance

<sup>1</sup> Short title, "The Madras State-offences Regulation, 1808"—see the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation has been declared, by s. 4 of the Laws Local Extent Act, 1874 (XV of 1874), to be in force throughout the Madras Presidency except the Scheduled Districts.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 666.

<sup>2</sup> These words were substituted for the words "Governor in Council" by the Amending (Army) Act, 1894 (XIII of 1894). General Acts, Vol. IV.

<sup>3</sup> The words and figures "from the 1st day of October, 1808," were repealed by Act XII of 1876.

1808: Mad. Reg. VII.] *State-offences.*

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1816: Mad. Reg. I.] *Tanjore Police.*

to the British Government, either in consequence of their having been born, or their having served under it in any capacity, or of their being resident within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of conspiring with, or of openly aiding and abetting, the enemies of the British Government within any part of the said territories.

3. It is hereby further declared that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligation of such allegiance, shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a Court-martial during the establishment of martial law, shall be liable to immediate punishment of death, and shall suffer the same accordingly by being hanged by the neck until he is dead. All persons who shall in such cases be adjudged by a court-martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

4. The [Governor General in Council]<sup>1</sup> shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial at any time before the Courts of Judicature \* \* \* \*<sup>2</sup>

Courts-martial of lieges offending against Regulation.

Punishment of lieges convicted by Court-martial of crime specified in section 2.

Forfeiture of property.

Power to cause trial before ordinary Court.

### MADRAS REGULATION I OF 1816.<sup>3</sup>

[THE TANJORE POLICE REGULATION, 1816.]

[12th January, 1816.]

A Regulation for declaring the contributions hitherto paid in the Province<sup>4</sup> of Tanjore on account of the Kávali Police appropriate to the support of the new Police established, or to be established, in that Province; and \* \* \*<sup>5</sup> for regulating the collection and assessment of those contributions.

WHEREAS it has been deemed expedient to abolish the Kávali system in the Province of Tanjore, and to establish a more efficient system of police for

Preamble.

<sup>1</sup> These words were substituted for the words "Governor in Council" by the Amending (Army) Act, 1894 (XIII of 1894). Printed, General Acts, Vol. IV.

<sup>2</sup> So much of this section as refers to Reg. XX of 1802 was repealed by Mad. Act II of 1869, which was repealed by the Repealing Act, 1873 (XII of 1873).

<sup>3</sup> Short title, "The Tanjore Police Regulation, 1816"—see the Repealing and Amending Act, 1901 (XI of 1901).

<sup>4</sup> The Madras District Police Act, 1859 (XXIV of 1859), printed *infra*, is in force in the District of Tanjore—see Notification dated 19th January, 1860, noted at p. 311 of Vol. I of the Madras List of Local Rules and Orders, Ed. 1912.

<sup>5</sup> Certain words in the title and preamble, relating to the house-tax, have been omitted as obsolete.

that Province ; and whereas it has become necessary, in consequence, that the funds hitherto allotted for the support of the Kávali system should be declared appropriable, under the orders of the Governor in Council, to the maintenance of the new establishments of police ; and whereas those funds, derived from certain proportions of the annual gross produce of cultivated lands, whether málguzári or lákhiráj, from certain allotments of lands rent-free or favourably assessed, from \* \* \*<sup>1</sup> the contributions termed porupu and magamai, and other taxes of various descriptions, have never been regulated by public authority but have been partially collected, and their collection has been attended with much inconvenience, irregularity and trouble ; and whereas it is expedient that \* \* \*<sup>1</sup> provision should be made for collecting such sums as may be due in arrear to the police-fund, according to the rules which have been heretofore adopted by the Collectors of the land-revenue under the sanction of the Board of Revenue ; therefore, with a view to provide for the equalization and due collection of the said funds, and to render them appropriable to the support of the new police-establishments in Tanjore, the Governor in Council has been pleased to enact the following Regulation to take effect from the date of its being promulgated.

Contributions  
on account of  
police appro-  
priable to  
support of  
new police.

**2.** The contributions and allowances of every description, whether in money, grain or land, which have hitherto been allotted for the support of the Kávali system of police in the Province of Tanjore, are hereby declared to be resumed, and to be appropriable, under such orders as the Governor in Council may be pleased to issue, to the maintenance of the new establishment of police in that Province.

Collections  
from mál-  
guzári lands.

**3. First.**—The contributions from málguzári lands hitherto levied for the Kávali establishments, under the denomination of Kávali svatantrams, shall continue to be collected. The annual amount of such contributions, to be assessed on each village respectively, shall be the average of Kávali svatantrams paid or payable by each village in the six years from Fasli 1214 to Fasli 1219, inclusive. The contributions above-mentioned shall be paid by the mirásídárs or renters into the public treasury at the time and in the manner which may be established for the payment of the land-revenue.

Assessment  
on villages  
under amáni  
between  
Faslis 1214  
and 1219,

**Second.**—The amount of contribution to be paid in lieu of Kávali svatantram by villages which were under management during the period mentioned in the preceding clause, or during any part thereof, shall be collected at the established centage on the actual amount of the produce of such village.

and upon  
villages now  
or hereafter  
under amáni.

**Third.**—In villages which now are, or shall hereafter come, under management, the Collector shall levy the contributions to be raised on account of Kávali svatantram from the actual produce of such villages in grain at the established rates, and shall realize the same into the public treasury, in like manner as the land-revenue of those villages.

<sup>1</sup> See fifth footnote on the preceding page.

4. The allowances and contributions hitherto paid to the Kávalgárs by the holders of land wholly or partly alienated shall cease, and in lieu thereof there shall be annually levied from the holders of such lands a contribution in money at the same rate per véli, as, under the provisions of clause first, section 3 of this Regulation, is to be collected from the holders of the neighbouring málguzári lands of similar description and quality.

Contribution to be levied on account of police from lands wholly or partly alienated.

5. [ *Rules regarding assessment of house-tax.* ] *Rep., Act XVIII of 1861.*

6. *First.*—The Collector of the land-revenue shall continue to levy and receive the svatantram assessment \* \* \*.<sup>1</sup> All arrears of such contributions as are established by this Regulation shall be recoverable by distraint of personal property, in the same way and under the same process as arrears of the land-revenue.

Contributions by whom to be levied. Recovery of arrears.

*Second.*—All arrears which may be due to the police-fund under the former usages of the Province of Tanjore, or under the orders of the Board of Revenue, and of the Governor in Council, shall, in like manner, be recoverable by distraint of personal property in the mode prescribed by the Regulations for the recovery of arrears of revenue.

Recovery of arrears now due under usage of province or orders of Board and of Government.

## MADRAS REGULATION V OF 1816.<sup>2</sup>

[THE MADRAS VILLAGE-PANCHAYATS REGULATION, 1816.]

[17th May, 1816.]

A Regulation for authorizing Village Munsifs to assemble Village Pancháyats for the adjudication of civil suits for sums of money or other personal property, without limitation as to amount or value, within their respective jurisdictions, and for defining the powers and authority to be vested in such Village Pancháyats.

It being desirable, with a view to diminish the expense of litigation, and to render the principal and more intelligent inhabitants useful and respectable by employing them in administering justice to their neighbours, that civil

Preamble.

<sup>1</sup> The reference to the house-tax was repealed by Act XVIII of 1861, s. 1.

<sup>2</sup> Short title, "The Madras Village-pancháyats Regulation, 1816"—see the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation has been declared to be in force in the whole of the Madras Presidency except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.*, p. 723.

It has been declared, under s. 3 (b) of the same Act, not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 872.

It has been extended, by notification under s. 5 of the above-named Act, to the Tálúqs of Bhadrachalam and Rakapilli—see Fort St. George Gazette, 1879, Pt. I, p. 722, and Gazette of India, *ibid.*, p. 630.

suits between the Native inhabitants of the territories subject to the Presidency of Fort St. George should be referred for adjudication to assemblies denominated Pancháyats, and that for the purpose of facilitating such reference the Village Munsifs should be authorized to summon a Pancháyat on the application of both parties in a suit, and to refer such suit to be heard, tried and determined by such Pancháyat, and it being deemed expedient to protect members of Village Pancháyats from being called to account for their conduct in the performance of these duties, except on charges of corruption, the Governor in Council has enacted the following rules:—

Power to  
summon  
Pancháyats  
for decision  
of suits.

**2. First.**—Village Munsifs are hereby declared to be authorized to summon Pancháyats within their respective villages for the decision of suits for sums of money or other personal property, without limitation as to amount or value in the two following cases:—

Proviso.

**Second.**—In suits where both plaintiff and defendant may jointly agree that the matter at issue shall be determined by a Village Pancháyat without appeal and may prefer a request in writing to the Village Munsif to summon a Pancháyat, whether he be the Munsif of the village in which the parties reside, or of any other village, or where one party having preferred a request in writing to the Village Munsif to summon a Pancháyat, the other party, being an inhabitant of the same village, on being summoned by the Village Munsif shall attend and voluntarily give his assent in writing to the Village Munsif agreeing to that mode of trial.

Such suits  
when not  
to be  
entertained.

**Third.**—Provided, however, that in the cases specified in the preceding clause of this section the cause of action has arisen within twelve years previous to the institution of the suit, or that the plaintiff do show by clear and positive proof either that he had demanded the money or matter in question, and that the defendant had admitted the justice of the demand; or that he had directly preferred his claim within the period above-mentioned to a competent authority, and in such case that he assign satisfactory reasons to the Pancháyat why he did not proceed in the suit, or prove that from minority or other good and sufficient cause, he was precluded from obtaining redress.

Exception.

Number of  
members;  
majority  
to decide;  
of whom to  
be composed.

**3. First.**—The Village Pancháyat shall always consist of an odd number, never less than five nor more than eleven, and the majority shall decide.

Villager re-  
fusing liable  
to fine.

**Second.**—The Village Pancháyat shall be composed of the most respectable inhabitants of the village, who shall be called upon to serve in rotation whenever their number is sufficient for this purpose, and any inhabitant of the village refusing to serve on a Village Pancháyat shall be liable to be fined at the discretion of the Village Munsif in a sum not exceeding five<sup>1</sup>\* rupees, which shall be levied, if necessary, by the Village Munsif under the provisions for the execution of decrees in section 30, Regulation IV, 1816<sup>2</sup>.

Fine how  
levied.

<sup>1</sup> The word "Arcot" was repealed by Act XII of 1876.

<sup>2</sup> See now the Madras Village Courts Act, 1888 (Mad. Act I of 1889), by which Madras Reg. IV of 1816 has been repealed except as regards the Scheduled Districts. The Regulation, which was still in force in the Scheduled Districts of Madras, other than Ganjam and Vizagapatam, has since been altogether repealed by the Repealing and Amending Act, 1901 (XI of 1901)—see the Third Schedule, Part I.

*Third.*—Any respectable inhabitant of a neighbouring village may be placed on a Village Pancháyat if he be willing to undertake the duty.

Neighbouring villager may act.

*Fourth.*—When the parties in suits are of different castes or professions, the Village Munsif shall, in all practicable cases, name an equal number of persons of the caste or profession to which each party may belong to compose a part of the Village Pancháyat, and shall complete the Pancháyat by the selection of a person or persons belonging to a caste or profession different from that of both the parties.

Pancháyat when parties are of different castes.

*Fifth.*—If either party shall object to any one or more of the members nominated to compose the Village Pancháyat, and the Village Munsif shall consider such objection to be well grounded, he shall withdraw the members objected to and appoint others to serve in their stead.

Challenged members to be withdrawn.

*Sixth.*—When the parties may desire it, they shall each name two members, and the Village Munsif shall name another person, who may be unobjected to by the parties, to form the Pancháyat; but on all other occasions the whole shall be nominated by the Village Munsif; the practice of the parties naming two members each shall never be allowed when it can be avoided.

Naming of members when parties consent, and in other cases.

**4. First.**—The Village Pancháyat, being formed as prescribed in the foregoing section, shall proceed to investigate the matter referred to them in conformity to the following rules:—

How Pancháyat is to proceed.

*Second.*—The Village Pancháyat shall commence their proceedings by requiring from the parties an agreement in writing to abide by the decision of such Pancháyat, whose names shall be inserted in the agreement, which shall be witnessed by the Village Munsif and Karnam, and dated on the same day.

Agreement to abide by decision of Pancháyat.

*Third.*—Vakils for plaintiffs and defendants shall be admitted to plead before Village Pancháyats, provided that every person so appearing as a vakíl be a relative, servant or dependant of the person by whom he may be employed, and provided he be furnished with a vakálatnáma, describing his relation to his employer and the matter in which he is empowered to act; such vakálatnáma shall be exhibited by the vakíl before he be permitted to do any act in the suit.

Employment of relatives, etc., as vakils.

Vakálatnámas.

*Fourth.*—The parties being present in person or by vakíl, the Village Pancháyat shall receive the written plaint of the complainant, which shall state precisely the grounds of complaint, the time when the cause of action arose, the name and residence of the person or persons complained against, the total amount or value of the property claimed, and all material circumstances which may elucidate the transaction.

Reception of plaint.

Contents of plaint.

*Fifth.*—The plaint shall be read to the defendant or his vakíl, and the defendant or his vakíl shall be required by the Pancháyat to give in his answer either immediately, if he shall be prepared to deliver it, or on a day to be fixed, which shall not be later than one week from the reading of the plaint.

Plaint to be read to defendant.

Answer to be required.

Answer to be full.

*Sixth.*—The defendant shall state in his answer all that he has to say regarding the case, and no further pleadings shall be admitted.

Exhibits and lists of witnesses.

Day to be fixed for trial.

Such lists and day of trial to be communicated to Village Munsif.

How depositions of witnesses to be taken.

When Pancháyat to use discretion.

Authority to administer oath.

Leading questions not to be put. Discretion to administer oath.

Trial when to be suspended. Report to Village Munsif. Notice of day of trial.

Suit when to be dismissed.

When to be tried *ex parte*.

Circumstances to be reported to Village Munsif;

*Seventh.*—The Village Pancháyat, after the answer has been given in, shall receive from the plaintiff and defendant their exhibits and lists of their witnesses, and shall fix an early day for the trial, with reference to the convenience of the parties and witnesses respectively.

*Eighth.*—The Village Pancháyat shall immediately communicate the lists of witnesses and the day fixed for the trial to the Village Munsif, who shall require the witnesses to be in attendance on that day.

*Ninth.*—The parties and witnesses being in attendance on the prescribed day, the Village Pancháyat shall proceed to take the depositions of the witnesses in the manner usual in the caste to which they may respectively belong, on separate papers or cadjan leaves in all cases in which the matter at issue may exceed the value or amount of twenty\*<sup>1</sup> rupees; the deposition shall be read over to the witness, who shall then subscribe the deposition with his or her name or mark.

*Tenth.*—In cases in which the matter at issue may be of smaller amount or value than twenty\*<sup>1</sup> rupees, it shall be discretionary with the Village Pancháyat to take the depositions of the witnesses in writing or not.

*Eleventh.*—The Village Pancháyats are authorized to cause an oath to be administered to witnesses in cases where they may deem it necessary.

*Twelfth.*—The Village Pancháyats shall not put a question to any witness suggesting a particular answer, and shall, previous to the examination of a witness, inform him that they have authority to cause an oath to be administered to him when they may think he is not giving his evidence correctly, which authority the Village Pancháyats shall exercise at their discretion.

*Thirteenth.*—If the parties or either of them shall fail to appear in person or by vakíl at the time fixed for the trial, the Village Pancháyat shall suspend the trial and report it to the Village Munsif, who shall cause to be affixed in some conspicuous place of the village a notice specifying that the suit will be tried on a given day, which shall not be less than five days from the date of the notice.

*Fourteenth.*—If the plaintiff shall not appear at the time fixed in the notice, the Village Pancháyat shall dismiss his suit, which shall not be revived unless the plaintiff shall show good and sufficient cause for his absence.

*Fifteenth.*—If the defendant shall refuse to answer the plaint, or shall not attend at the time fixed in the notice, the Village Pancháyat shall proceed to give judgment on the plaintiff's vouchers and the evidence of his witnesses.

**5.** In cases where a witness shall neglect to attend, or attending shall refuse to give his testimony, or shall be otherwise guilty of disrespect to the Village Pancháyat, as also where the evidence of a person is required who resides beyond the jurisdiction of the Village Munsif, as also in the cases of persons whose testimony may be required, but whose rank or caste may render

\* The word "Arcot" was repealed by Act XII of 1876.

it improper to require their attendance, as also when the parties or their vakils may be guilty of disrespect to the Village Pancháyat, the Pancháyat shall report the circumstances to the Village Munsif, who is hereby authorized and directed, on receiving such reports, to take the same measures for procuring the attendance or testimony of the witnesses, or for punishing the contempts, as he would have taken under sections 15, 16 and 19, Regulation IV, 1816,<sup>1</sup> if the circumstances represented had occurred before himself.

6. When both parties have been heard, and the whole of the evidence has been gone through, the Village Pancháyat shall order the parties and witnesses to withdraw, and shall write their decree according to justice and right.

7. The decree of the Village Pancháyat shall contain the names of the parties, and the names of the witnesses examined, and the titles of the exhibits read; it shall also contain an abstract statement of the principal grounds and reasons on which the decision may be passed; it shall specify the sum of money or the value of the personal property adjudged; the decree shall bear the signature or mark of the members of the Pancháyat,<sup>2</sup> and shall be dated on the day on which it is passed.

8. Two copies of the decree shall be prepared by the Village Pancháyat and shall be put under a sealed cover and delivered to the Village Munsif, who shall require the parties, together with the Pancháyat, to assemble immediately, or at a convenient day, not being later than three days from his receipt of the decree; the Village Munsif shall open the seal in presence of the parties, and shall cause the Karnam to indorse on each copy of the decree the date of the delivery thereof, which shall be attested by the signature of the Village Munsif, the Karnam and any member of the Pancháyat; the Village Munsif shall then cause the Pancháyat to deliver to each party in his presence a copy of the decree; but no communication shall be made to the Village Munsif or to either party of the nature of the decree previously to its delivery.

9. If either the plaintiff or defendant shall fail to appear in person or by vakil to receive a copy of the decree, or, having attended, shall refuse to receive a copy, the Village Munsif shall cause the Karnam to indorse on the copy intended for such party such omission or refusal and the date; the Village Munsif shall attest the same with his signature, which shall be witnessed by the Karnam and any member of the Pancháyat; the copy so indorsed shall be deposited with the Village Karnam to be delivered to the party afterwards claiming it.

10. The proceedings of the Village Pancháyat shall be written either by one of the members or by the Village Karnam \* \* \* \*<sup>3</sup>

11. *First.*—No appeal shall be permitted from decisions passed by Village Pancháyats under this Regulation; but, if the Village Pancháyat shall be

<sup>1</sup> See foot-note to s. 3, cl. second, *supra*.

<sup>2</sup> See Act VIII of 1840. Printed, *infra*.

<sup>3</sup> The words "and no stamp-paper need be used in plaint, answer or any process," were repealed by Act XII of 1876.



When parties may petition Judge. Limitation for petitions. guilty of gross partiality, it shall be at the option of either party to bring the matter by petition \*<sup>1</sup> before the Judge of the zila.

*Second.*—The petition shall not be received unless it be presented, with the decree complained of, within thirty days after the date on which copies of the decree may have been furnished or tendered to the parties or to their vakils.

When received, execution to be stayed. Decree to be annulled on proof of partiality.

*Third.*—If the petition be received, the Judge shall order the execution of the decree to be stayed pending the inquiry.

*Fourth.*—If the partiality charged against the Pancháyat shall be established to the satisfaction of the Judge, \*<sup>1</sup> he shall in every case, whatever the amount or value of the suit may be, submit his proceedings, with his opinion on the case, to the \*<sup>1</sup> Court of Appeal, who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision, and the parties shall be at liberty to have recourse to another Pancháyat, or to any other competent jurisdiction.

Decision of Pancháyat when final.

*Fifth.*—Provided, however, that, where the decision of a second Pancháyat shall agree with the decision of a former Pancháyat in the same suit, it shall be final.

Petitions by whom to be presented. Fee to vakil presenting.

*Sixth.*—Petitions to the Judge of the zila under this section shall be presented by the parties in person, or by an authorized vakil of the Court to whom a fee of four annas of a rupee shall be allowed, and no more; and the parties shall not be subjected to any other charge whatever.

Suits for personal damages not to be received.

**12.** Village Munsifs shall not receive or refer to a Pancháyat for trial any suit for damages on account of personal injuries, or for personal damages of whatever nature.

Suits tried by Village Pancháyats exempt from charges.

**13.<sup>2</sup>** Suits tried by Village Panchayáts shall be exempt from fees, stamp-duties, batta and all charges of every description, except the cost of the paper or cadjan leaves on which the proceedings and decree may be written, the amount of which shall be inserted in the decree, and be levied from the party cast.

**14.** [Rate of interest to be allowed.] *Rep., Act XXVIII of 1855.*

**15.** [Stamp-duties.] *Rep., Act XII of 1876.*

Village Munsifs to execute decrees of Village Pancháyats.

**16. First.**—Decrees of Village Panchayáts in cases referred to them under this Regulation, shall be carried into execution by the Village Munsif under the rules prescribed in section 30, Regulation IV, 1816,<sup>3</sup> provided the amount or value of the sum of money or other personal property adjudged shall not exceed one hundred \*<sup>4</sup> rupees.

In what cases decrees to be executed by District Munsif.

*Second.*—In suits for sums of money or other personal property the amount or value of which shall exceed one hundred, but not exceed two hundred rupees, the decrees of Village Pancháyats shall be carried into execution by

<sup>1</sup> Certain obsolete words were repealed by Act XII of 1876.

<sup>2</sup> So much of this section as relates to fees on the institution of suits tried by Village Pancháyats was repealed by the Court-fees Act, 1870 (VII of 1870). General Acts, Vol. II.

<sup>3</sup> See foot-note to s. 3, cl. second, *supra*.

<sup>4</sup> The word "Arcot" was repealed by Act XII of 1876.

the District Munsifs on the written application of the party praying execution of the judgment<sup>1</sup>[if the village is not situated within the local limits of the jurisdiction of any District Munsif, the subordinate Judge or if there be no subordinate Judge the District Judge within the local limits of whose jurisdiction the village is situated shall be deemed to be the District Munsif for the purposes of this section.]

*Third.*—In all other cases the decisions of Village Pancháyats shall be carried into execution by the Zila Judge in the mode prescribed by the Regulations. Execution by Zila Judge.

**17.** Petitions to the Judge of the zila praying execution of the decisions of Village Pancháyats shall be written<sup>\*\*\*2</sup> and shall be presented by the parties in person, or by an authorized vakil of the Court, to whom a fee of four annas of a rupee shall be allowed, and no more; and such application shall not be subjected to any other charge whatever. Presentation of petitions for execution.  
Fee to vakil.

**18. First.**—Any member or members of Village Pancháyats shall be liable to prosecution in the Zila Court for corruption in the discharge of their trust by either party in a suit which may have been referred to such Pancháyat, and, upon proof of the charge to the satisfaction of the Zila Judge, he shall adjudge the offender or offenders to pay the prosecutor three times the amount or value of the money or property corruptly received, with all costs of suit; but members of Village Pancháyats shall not be liable to be prosecuted for want of form, or for error in their proceedings or judgment; nor shall any process whatever be issued against a member or members of a Village Pancháyat who may be charged with corruption, unless the Judge shall be previously satisfied by sufficient evidence that there is probable cause to believe that the charge is well founded, and unless the charge shall be preferred within three months from the date of the act of corruption complained of. Liability of members of Pancháyats to prosecution.  
Punishment.  
Not liable to prosecution for error or want of form.  
Proviso as to issue of process on charge of corruption.

*Second.*—The Zila Judge shall further fine the party by whom, or for whom, the corruption may have been practised in the suit, provided he shall have assented to such corruption, in a sum equal to the value of the thing or sum of money which any member or members of such Village Pancháyat may be proved to have so corruptly received. Fine on party by whom or for whom corruption is practised.

*Third.*—If the corruption charged against any member or members of such Village Pancháyat shall not be proved to the satisfaction of the Zila Judge, he shall award full costs and such damages to the member or members complained against as may appear to him to be equitable, and he shall levy a fine from the party making such groundless charge, not exceeding the value of the thing or sum of money charged to have been corruptly received. If corruption be not proved, accused to have damages and costs and party making charge to be fined.

**19.** [ *Reports to be sent to District Munsifs.* ] *Rep., Mad. Reg. IX of 1828.*

**20.** A copy of this Regulation shall be lodged with and preserved by each Village Karnam, for the information of the Village Munsifs and members of Village Pancháyats. Deposit of copy of Regulation.

<sup>1</sup> The words in square brackets were added by Mad. Act IV of 1904, s. 2 *infra*.

<sup>2</sup> Certain obsolete words were repealed by Act XII of 1876.

MADRAS REGULATION XI OF 1816.<sup>1</sup>

[THE MADRAS VILLAGE-POLICE REGULATION, 1816.]

[13th September, 1816.]

A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George.

**1 to 7.** [*Repeal of certain enactments: Persons by whom Police duties are to be discharged: Powers and duties of heads of villages: Police duties.*] *Rep. Act XVII of 1862.*

Information to be communicated by heads of villages to each other.

**8.** Heads of villages shall reciprocally communicate any information which they may receive of offences committed, or of gangs of robbers, or of suspicious persons having entered or taken refuge in each other's villages, and shall co-operate in all things for the apprehension of offenders and the general security of the country.

To report arrival of suspicious persons.

**9.** Heads of villages shall report to the Police-officer of the district the arrival in their villages of strangers of suspicious appearance, and all information which they may be able to collect concerning such persons.

Powers of heads of villages to inflict punishment.

**10. First.**—<sup>2</sup>In cases of a trivial nature, such as abusive language and inconsiderable assaults or affrays, heads of villages shall have authority, on a verbal examination, either to dismiss the parties, or, if the offence charged shall be proved to have been committed by the persons accused of it and shall appear deserving of punishment, to confine the offending parties in the village choultry for a time not exceeding twelve hours; or if the offending parties shall be of any of the lower castes of the people, on whom it may not be improper to inflict so degrading a punishment, to order them to be put in the stocks for a time not exceeding six hours.

Obligation to report cases of punishment.

*Second.*—Heads of villages shall report to the Police-officer of the district all cases in which they shall have exercised the power of punishment granted to them by the first clause of this section, but it shall not be necessary for them to report the cases in which they may dismiss parties.

Heads of villages how to proceed on receiving information of stolen property.

**11. First.**—Where heads of villages may have credible information of stolen property being concealed, and there may be reason to apprehend that it will be made away with unless prompt measures be taken to secure it, they shall cause search to be made and the property, if found, to be secured and

<sup>1</sup> Short title, "The Madras Village-police Regulation, 1816"—see the Repealing and Amending Act, 1901 (XI of 1901).

Sections 8, 9, 10, 11 (*cl. 1*), 13, 14 and 47 have been declared to be in force in the whole of the Madras Presidency, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4.

The Regulation has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluq of Bhadrachalam and Rakapilli—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.*, p. 722.

<sup>2</sup> This clause has been extended to petty thefts—see Mad. Reg. IV of 1821, s. 6, *cl. 1*, *infra*.

forwarded with the offender to the Police-officer of the district. If the place of concealment be a dwelling-house, the search shall be made only between sunrise and sunset.

*Second and Third.*—[*Procedure when persons found selling stolen property.*] *Rep., Act XVII of 1862 as amended by Act XXXVI of 1867.*

**12.** [ *Duties of heads of villages with regard to strays.*] *Rep., Act III of 1857.*

**13.** *First.*—The head of the village, on receiving information of the discovery of the body of a person supposed to have been murdered, shall immediately proceed to the spot with the Karnam and two or three respectable inhabitants, in whose presence he shall examine every person who may be able to afford any information regarding the discovery of the body and its appearance when discovered, or regarding the murder of the deceased, if the body should have been deprived of life by murder.

*Second.*—The head of the village on receiving information of the discovery shall also, without delay, send notice of it to the Police-officer of the district and, if the Police-officer shall arrive at the spot in time to inquire into the circumstances under which the body may have been discovered, the inquiry shall be conducted under his superintendence. Notice of such discovery to Police-officer.

*Third.*—If the Police-officer should not appear to conduct the inquiry, the head of the village shall cause the Karnam to take down in writing the evidence of the persons who may be examined, and to record any necessary particulars respecting the appearance of the body, and to frame a report of the whole proceedings. The head of the village shall attest such report with his signature, and, having procured it to be attested by two or more of the inhabitants who may be present at the investigation and by the Karnam, he shall forward it to the Police-officer of the district with the evidence he may have taken. Procedure where Police-officer fails to appear to conduct inquiry.

*Fourth.*—If on the proceedings of the head of the village there shall in any case appear ground for suspecting any person or persons who may be within his jurisdiction of having committed the murder, the head of the village shall immediately apprehend and send such person or persons to the Police-officer of the district. Apprehension of person suspected of murder.

**14.** Karnams shall keep registers of persons confined by the heads of villages under section 10 of this Regulation, and these registers shall be transmitted monthly by the heads of villages to the Police-officers of their respective districts, to be forwarded to the Magistrate. Registers of persons confined to be kept by Karnams, and transmitted to Police-officer.

[ *Form of Register.*] *Rep., Reg. IX of 1828, s. 2.*

**15 to 43.** [ *Appointment and duties of village-watchers : duties of kutwals and their peons : Police duties of Tahsildárs and other Revenue servants : powers and procedure of Tahsildárs in various cases : Zamindárs as Police-officers : Amins of Police in large towns : limitations for complaints of petty offences : arrest of persons tendering property for sale or pawn under suspicious circumstances : prosecution of Police-officers for extortion or oppression :*

*Police-officers to take no cognizance of cases of adultery and fornication.] Rep., Act XVII of 1862.*

Magistrates  
charged with  
the mainten-  
ance of  
peace.

**47.** The Magistrates shall be charged with the maintenance of the peace within their respective zilas, and, whenever their establishments may be insufficient to resist banditti or other disturbers of the public peace, they shall apply for assistance to the nearest military station \* \* \*

**48 to 51.** [*Police peons to be equally employed in Police and Revenue duties: licenses for manufacture of fire-arms: inter-communication between Magistrates: duties of Magistrates in case of disputes concerning crops or use of water.] Rep., Act XVII of 1862.*

**52.** [*Disposal of strays.] Rep., Act III of 1857.*<sup>2</sup>

**53 to 56.** [*Determination of rates of hire of palanquin-bearers, coolies, etc.: complaints regarding false weights and measures: only Magistrates to issue orders to Police-officers: may correspond direct with Government.] Rep., Act XVII of 1862.*

### MADRAS REGULATION XII OF 1816.<sup>3</sup>

[THE MADRAS VILLAGE-LANDS DISPUTES REGULATION, 1816.]

[13th September, 1816.]

**A** Regulation for authorizing Collectors to refer *claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary*<sup>4</sup>; as also certain disputes respecting the occupying, cultivating, and irrigating of land, to be tried and determined by Village and District Pancháyats; and for prescribing the Rules under which the trial of such disputes shall be conducted, and the decisions of the Pancháyats carried into execution.

Preamble.

<sup>4</sup> *The mode of determining the validity of claims to disputed lands or crops prescribed in section 2, Regulation XXXII, 1802,*<sup>5</sup> *being considered to be*

<sup>1</sup> Certain words, repealed by Act XII of 1876, have been omitted. The words had previously been repealed by Mad. Reg. II of 1832.

<sup>2</sup> Also included in the Schedule to Act XVII of 1862.

<sup>3</sup> Short title, "The Madras Village-lands Disputes Regulation, 1816"—see the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared to be in force in the whole of the Madras Presidency, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 631, and Fort St. George Gazette, *ibid.*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.*, p. 722.

<sup>4</sup> The Regulation has been repealed by the Madras Survey and Boundaries Act, 1897 (Mad. Act IV of 1897), so far as it applies to cases of claims to lands or crops, the validity of which claims may depend upon the determination of an uncertain and disputed boundary or landmark.

<sup>5</sup> Rep., Mad. Reg. V of 1822, s. 10.

*inconvenient to the parties*, and the determining, in the Adálat of the zila of suits respecting the occupying, cultivating and irrigation of land, which may arise between proprietors or renters and their raiyats, in those districts where the land-revenue is fixed either permanently, or for a term of years, being also regarded as liable to the same objections; and it being deemed expedient that further provision should be made for the investigation and determination of such claims, and that Collectors should for that purpose be authorized to refer them for trial and decision to Village and District Pancháyats; the Governor in Council has passed the following rules, to be in force in the territories subject to the Presidency of Fort St. George.

**2.** Village and District Pancháyats are hereby authorized to hear and determine such suits as may be referred to them by the Collectors of zilas under this Regulation, through the Village and District Munsifs.

Pancháyats authorized to determine suits referred to them.

**3.** Plaintiffs and defendants shall be allowed to employ a relative, a servant or dependent to act in their behalf in suits which may be brought before the Collectors of zilas under this Regulation, under the same provisions as are prescribed \* \* \*<sup>1</sup> for suits before the District Munsifs.

Employment of relatives, etc., as vakils.

**4. First.**—In cases of claims to lands or crops in districts permanently settled or otherwise, the validity of which claims may depend on the determination of an uncertain and disputed boundary or landmark, and also in cases of disputes respecting the occupying, cultivating, and irrigating of land which may arise between the proprietors or renters and their raiyats, in those districts only where the land-revenue is fixed, either permanently or for a term of years, persons having such claims may prefer them in person or by vakíl to the Collector of the zila in which the lands may be situated.

In what cases persons may prefer their claims to Collectors.

**Second.**—The plaint, if for land, shall contain as accurate a description as can be obtained of the land claimed, its position, boundaries, extent and the value of its estimated annual produce, also whether it be subject to the payment of rent or revenue, or whether it be exempt from any charge on these accounts, also the time when the cause of action arose, the name and residence of the person or persons complained against, and all material circumstances which may elucidate the transaction.

What the plaint is to contain if for land.

**Third.**—If the plaint be for water, it shall, with regard to the land to be watered, state the above particulars and in addition thereto the custom of the village relative to the irrigation of the land in question.

What the plaint is to contain if for water.

**5. First.**—The Collector, on receiving a complaint preferred under the preceding section, shall issue a summons to the defendant containing a short abstract of the complaint, and shall require the defendant to appear at the kacharí of the Collector, in person or by vakíl, on a day specified, to make answer to the complaint. The summons shall be attested by the seal of the Collector and his official signature, or that of his Assistant, and shall be served by a single peon of the Collector's establishment.

Summons to defendant to be issued. Contents of summons.

How to be attested and served.

<sup>1</sup> Certain obsolete words have been repealed by Act XII of 1876.

Peon how to proceed.

Refusal to acknowledge summons; how to be attested.

How Collector to proceed if defendant is not to be found, or refuse to acknowledge summons.

Notice to be affixed.

Where notice is to be affixed.

Return how made.

Collector how to proceed if defendant appear.

Defendant liable to fine for contempt. Collector how to proceed if such fine be not paid or security given.

Plaint to be read to defendant in presence of plaintiff.

Procedure when defendant admits

*Second.*—The Collector's peon shall require the defendant to affix his signature to the summons in acknowledgment of its having been duly served; and, in the event of defendant refusing to affix his signature thereto, the peon shall call upon some of the village-officers or neighbours of the defendant to witness such refusal and to attest the endorsement of it which he shall make on the summons, and shall return the same to the Collector on or before the day fixed for such return.

*Third.*—If a defendant against whom a summons may issue shall abscond or is not after diligent search to be found, or shall shut himself up in his own or in any house or building, or retire to any place so that the process cannot be served upon him and the peon shall return that on such account he has not been able to serve or execute the process, or if he shall refuse to acknowledge the service of the summons, on return being made in the mode prescribed in the preceding clause, the Collector shall cause a writing in the language of the district to be stuck up in some conspicuous part of his kachari, containing a copy of the summons and a notice that if the party shall not appear on a day to be specified (which shall not be less than fifteen days from the time that the notice may be fixed up), the Collector will proceed without further notice to refer the cause, with the consent of the plaintiff, to be tried and determined by a Panchayat of the district in which the disputed lands may be situated, without the appearance or answer of the defendant. The Collector shall likewise order a copy of the summons and notice to be fixed up, with all practicable despatch, on the outer door of the house in which the defendant may have usually dwelt, or in some conspicuous place in the village or other place in which he may have generally resided. The peon serving the summons shall return the order, with an endorsement stating at what times and places the summons may have been fixed up.

*Fourth.*—If the defendant shall appear by the time limited in the notice, the Collector shall proceed to investigate the cause of his absence, or the circumstance of his refusal to sign the summons, and, if it shall appear to the satisfaction of the Collector that the conduct of the defendant has been contemptuous, he is empowered to punish such contempt by imposing a fine on the defendant, according to the circumstances of the case, not exceeding ten rupees; and if such fine be not immediately paid, or security given for the payment within a reasonable time, the Collector shall punish such defendant by committing him to the zila jail, or by keeping him in custody in the kachari or village-choultry for a period not in any case exceeding fifteen days, or until the fine shall be paid.

*Fifth.*—On the appearance of the defendant, if he shall appear according to the first summons, or by the time limited in the notice, the Collector shall cause the plaint to be read over to the defendant in the presence of the plaintiff, and shall demand whether he admit or deny the truth of the complaint. If the defendant shall acquiesce in the truth of the complaint, the Collector shall record such acquiescence at the foot of the plaint, and require

the defendant to attest the same with his signature in the presence of witnesses, not being servants of the Collector's establishment, who shall also attest the same, and the document shall be countersigned by the Collector, who shall return the document to the complainant, together with an order to the Tahsildár or principal Native Revenue-officer of the district or Village Munsif, to transfer the lands described in the plaint to the plaintiff; or, if the plaint include crops grown on such lands, to cause the crops, or the value of them to be restored to the plaintiff by the defendant; or, if the plaint be for water to order the water to be distributed as required in the plaint; and no other proceedings shall be necessary in the cause.

*Sixth.*—If the defendant shall deny the truth of the plaint, the Collector shall inquire of the parties whether they mutually consent to have the cause investigated and decided by a Village Pancháyat; and upon their agreeing in writing to have the matter investigated and decided by the Pancháyat of any particular village, the Collector shall immediately forward the petition of plaint with an order to the Munsif of that village to assemble a Pancháyat without delay to investigate and determine the suit.

*Seventh.*—If either the plaintiff or defendant shall object to the reference of the cause to be tried and determined by a Village Pancháyat, and either of them shall desire in writing that it may be referred to be tried and decided by a District Pancháyat, the Collector, whether the other party agree to such reference or not, shall forward the plaint to the Munsif of the district in which the disputed property may be situated, with an order to assemble a Pancháyat, within fifteen days from the receipt of such order, to investigate and determine the suit.

*Eighth.*—If neither of the parties shall agree to the reference of the suit to a District Pancháyat, the suit shall be dismissed, and the parties shall be at liberty to seek redress from the Zila Court or any competent jurisdiction.

**6. First.**—The Pancháyats shall be assembled according to the rules prescribed for assembling Village and District Pancháyats, and their proceedings in cases referred under this Regulation shall be conducted according to the general rules enacted in Regulations V<sup>1</sup> and VII,<sup>2</sup> 1816, for their guidance, with the following qualifications.

*Second.*—When only one of the parties shall appear before the District Munsif, the Pancháyat shall be formed upon the challenge of such party only, and shall proceed to try the suit \* \* \*<sup>3</sup>.

*Third.*—When the decree has been framed and two copies of it prepared, it shall be read in the presence of the parties, and the two copies shall be sealed up in a packet and delivered to the Munsif, who shall forward it to the Collector sealed as he received it.

<sup>1</sup> Printed *supra*

<sup>2</sup> Mad. Reg. VII of 1816 has been repealed by Act III of 1873.

<sup>3</sup> Certain obsolete words have been repealed by Act XII of 1876.



Decrees to be confirmed before execution. When to be set aside.

Forms to be observed by Collector on receiving packet.

When to be delivered to parties.

Non-appearance, or refusal, to receive copy, to be endorsed.

Collector how to proceed on charge of partiality being preferred to him and proved to his satisfaction.

When decision of Panchayat final.

Collector how to proceed on partiality not being proved; may levy a fine.

Decrees how to be executed.

*Fourth.*—Decrees of the Village and District Pancháyats in suits which may be referred to them by the Collectors under this Regulation shall not be carried into execution until confirmed by the Collector, nor shall they be set aside for any other cause than gross partiality on the part of the Pancháyat.

**7.** The Collector shall detain the packet in the state in which he received it for twenty days; and, if in that time no charge of gross partiality shall be preferred by either party against the Pancháyat, he shall open the packet and confirm the decision by affixing his seal and signature to each of the two copies, and he shall return them to the Munsif from whom he received them.

**8. First.**—The Munsif, on receiving the copies of the decree confirmed by the Collector, shall summon the parties and deliver to each of them a copy of the decree.

*Second.*—If either the plaintiff or defendant shall fail to appear in person or by vakil to receive a copy of the decree, or, having attended, shall refuse to receive a copy, the Munsif shall cause to be endorsed on the copy intended for such party such omission or refusal, and the date. The Munsif shall attest the same with his signature, which shall be witnessed by any two credible witnesses. The copy so endorsed shall be deposited in the records of the District Munsif, or the Village Karnam, as the case may be, to be delivered to the party afterwards claiming it.

**9. First.**—If either of the parties shall, within the prescribed period of twenty days, charge the Pancháyat with gross partiality, and if the partiality charged against the Pancháyat shall be established to the satisfaction of the Collector \* \*<sup>1</sup> he shall in every case, whatever the amount or value of the suit may be, submit his proceedings, with his opinion on the case, to the \* \*<sup>2</sup> Court of Appeal, who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision, and the parties shall be at liberty to have recourse to another Pancháyat or to any other competent jurisdiction.

*Second.*—Provided, however, that the decision of a second Pancháyat shall agree with the decision of a former Pancháyat in the same suit, it shall be final.

*Third.*—If the partiality charged against the Pancháyat shall not be proved to the satisfaction of the Collector, he shall confirm the decree as prescribed in section 7 of this Regulation, and shall levy a fine from the party making such groundless charge, not exceeding one hundred<sup>2</sup> \* rupees.

**10.** Decrees of Village and District Pancháyats, in cases referred to them under this Regulation, shall be carried into execution, on the written application of the party in whose favour the decree may be given, by the Collector, or by the Tahsildár or principal Native Revenue-officer of the district, by causing the boundary, when the suit relates to a disputed boundary, to be marked out in the presence of the Village Munsif and Karnam and two or more of the

<sup>1</sup> Certain obsolete matter has been repealed by Act XII of 1876.

<sup>2</sup> The word "Arcot" was repealed by Act XII of 1876.

1816: Mad. Reg. XII.] *Village-lands Disputes.*

43

1817: Mad. Reg. VII.] *Endowments and Escheats.*

principal inhabitants, and in all other cases by causing the land to be given up or the water to be distributed as prescribed by the decree.

11. Suits instituted before the Collectors under this Regulation shall be \*<sup>1</sup> (Charges on suits under Regulation. liable only to such charges as are specified in Regulation V, 1816,<sup>2</sup> if decided by a Village Panchayat.\*<sup>1</sup>

12. [Returns of decisions of Panchayats.] Rep., Mad. Act II of 1869.

13. A copy of this Regulation shall be lodged with and preserved by each Village Karnam, for the information of the Village Munsifs. (Deposit of copy of Regulation.

### MADRAS REGULATION VII OF 1817.<sup>3</sup>

[THE MADRAS ENDOWMENTS AND ESCHETS REGULATION, 1817.]

[30th September, 1817.]

A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges, or other public purposes; for the maintenance and repair of bridges, choultries or chattrams, and other public buildings; and for the custody and disposal of escheats.

WHEREAS considerable endowments have been granted in money, or by assignments of land, or of the produce or portions of the produce of land by former Governments of this country, as well as by the British Government, and by individuals for the support of mosques, Hindu temples, colleges and choultries, and for other pious and beneficial purposes; and whereas there are grounds to believe that the produce of such endowments is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments, and whereas it is the duty of the Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover expedient to provide for the maintenance and repair

<sup>1</sup> Certain obsolete matter has been repealed by Act XII of 1876.

<sup>2</sup> Printed, *supra*.

<sup>3</sup> Short title, "The Madras Endowments and Escheats Regulation, 1817"—see the Repealing and Amending Act, 1901 (XI of 1901).

So much of this Regulation as relates to endowments for the support of mosques, Hindu temples or other religious purposes is repealed by the Religious Endowments Act, 1863 (XX of 1863), General Acts, Vol. I.

It has been declared in force in the whole of the Madras Presidency, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4.

It has been declared by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid*, p. 722.

It has been extended, by notification under s. 5 of the above-named Act, to the Taluqs of Bhadrachalam and Rakapilli—see Gazette of India, 1879, Pt. I, p. 630 and Fort St. George Gazette, *ibid*, p. 722.

The Regulation has been declared by notification under s. 3(b) of the same Act, not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 872.

of bridges, choultries, chattrams and other buildings which have been erected either at the expense of Government or of individuals, for the use and convenience of the public ; and also to establish proper rules for the custody and disposal of escheats—the following rules have been enacted, to be in force from the date of their promulgation throughout the Provinces immediately dependent on the Presidency of Fort St. George.

General  
superintend-  
ence of en-  
dowments  
for support  
of mosques,  
etc.

2. The general superintendence of all endowments in land or money granted for the support of mosques, Hindu temples or colleges, or for other pious and beneficial purposes, and of all public buildings, such as bridges, choultries or chattrams, and other edifices, in the several Provinces dependent on the Presidency of Fort St. George, is hereby vested in the Board of Revenue.

Board to  
provide for  
appropria-  
tion of such  
endowments,  
and for repair  
of public  
buildings.

3. It shall be the duty of the Board of Revenue to take such measures as may be necessary to ensure that all endowments made for the maintenance of establishments of the description above-mentioned are duly appropriated to the purpose for which they were destined by the Government or the individuals by whom such endowments were made. In like manner it shall be the duty of that Board to provide,<sup>1</sup> [\* \* \* \*] for the due repair and maintenance of all public edifices which have been erected at the expense either of the former or present Government, or of individuals, and which either are, or can be, rendered conducive to the convenience of the community.

Buildings  
fallen to de-  
cay or not  
calculated to  
be useful if  
repaired, how  
to be dis-  
posed of.

4. In those cases, however, in which any of the buildings specified in the preceding section have fallen to decay, and cannot be conveniently repaired, or are not calculated, if repaired, to afford any material accommodation to the public, the Board of Revenue shall submit to Government their opinion as to the most expedient mode of disposing of such buildings ; and they shall be sold on the public account, or otherwise disposed of, as the Governor in Council may determine.

Board to  
prevent en-  
dowments  
from being  
appropriated  
to private  
uses.

5. Under the foregoing rules it may be incumbent on the Board of Revenue to prevent any endowments in land or money, which have been granted for the support of establishments of the above description, or any public edifices, from being converted to the private use of individuals or otherwise misappropriated.

General su-  
perintendence  
of escheats.

6. The general superintendence of all escheats is likewise hereby vested in the Board of Revenue, who will, through the channel hereafter mentioned, inform themselves fully of all property of that description, and submit to Government their opinion as to the most expedient mode of disposing thereof ; and the same shall be sold on the public account, or otherwise disposed of, as the Governor in Council may determine.

<sup>1</sup> The words " with the sanction of Government " were repealed by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

7. To enable the Board of Revenue the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each zila, subject to the authority, control and orders of that Board. Local agents.

8. The Collector of the zila shall be *ex-officio* one of those agents, and the Governor in Council, when he deems it necessary, may appoint any other public officer or officers from the civil, military or medical branch of the service to act in conjunction with him. *Ex-officio* agents.

9. Under the provisions of the present Regulation it will be the duty of the local agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those before described, and respecting all escheats, and to report to the Board of Revenue any instance in which they may have reason to believe that lands or buildings, or the rent or revenues derived from lands are unduly appropriated, being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals. Agents to ascertain particulars of endowments, etc., and report to Board ;

10. The said local agents shall further ascertain and report to the Board of Revenue the names of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, together with other particulars respecting them, and by whom and under what authority they have been appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder or under any general rules or maxims applicable to such institutions and foundations. to report names, etc., of present trustees or managers, and by what authority appointed

11. The local agent shall also report to the Board of Revenue all vacancies and casualties which may occur, with full information of all circumstances, to enable that Board to judge of the pretensions of the person or persons claiming the trust, particularly whether the succession has been heretofore by inheritance in the line of descent, or whether the successor has been in former instances elected, and by whom, or whether he has been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself. to report to Board vacancies or casualties, and pretensions of claimants;

12. In those cases in which the nomination has usually rested with the Government, or with the public officer, or in which no private person may be competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the Board of Revenue, a person or persons for the charge of trustee, manager or superintendent, strictly attending to the qualifications of the person or persons selected, and to any special provisions of the original endowments and foundation, and to the general rules or the known usages of the country applicable to such cases. to recommend fit persons where right of nomination rests with Government.

13. On the receipt of the report and information required by the preceding clause, the Board of Revenue shall either appoint the person or persons Board to appoint persons, or

make other provisions for trust with reference to conditions of endowment.

nominated for their approval, or shall make such other provision for the trust, management or superintendence, as may to them seem right and fit, with reference to the nature and conditions of the endowment, having previously called for any further information from the local agents that may appear to them to be requisite.

Persons feeling injured by orders under Regulation may sue for recovery of rights or for damages.

**14.** Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the before-mentioned authorities with respect to the appropriation of any lands or buildings, or of any rents and revenues from lands, of the nature of those before described, from suing in the mode and form prescribed by the Regulations where Government or public officers are parties; or under the general provisions of the Regulations, if the suit be brought against a competitor or other private person, for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Object of Regulation.

**15.** It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands or other endowments granted for public purposes agreeably to the intent of the grantor, and not to resume any part of them or of their produce, for the benefit of Government. In like manner it is fully intended that all buildings erected by any former or the present Government, or by individuals, for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot be conveniently repaired or which can no longer contribute to the accommodation of the community.

Native servants and others guilty of fraud or embezzlement, how punished.

**16.** The legislative provisions now in force or which may hereafter be enacted, for the punishment of fraud or embezzlement in the Native servants of Government employed under the Collector in the department of land-revenue, shall be held applicable to all Native servants, and to all trustees, managers or superintendents employed in, or charged with, the settlement, custody or appropriation of the revenues, funds or other property of the public institutions referred to in this regulation.

<sup>1</sup> “[**17.** Notwithstanding anything hereinbefore contained, the Governor in Council may delegate power to dispose of buildings under section 4 of escheats under section 6 to the Board of Revenue or to any officer not below the rank of an officer in charge of the revenue administration of a division of a district.”]

<sup>1</sup> Section 17 was added by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

MADRAS REGULATION VIII OF 1817.<sup>1</sup>

[THE MADRAS REVENUE RECOVERY (MILITARY PROPRIETORS) REGULATION, 1817.]

[9th December, 1817.]

<sup>2</sup> A Regulation for regulating the procedure where the estate of a native officer or soldier in the Madras Command becomes liable to sale for an arrear of revenue.

**1 to 8.** [*Modification in favour of Native officers and soldiers of the provisions of certain Regulations regarding suits ; appointment by them of attorneys to conduct suits : rules to be observed when suits brought against them : grant of leave for purpose of suits : permitted to conduct suits in person : such suits to be taken up at once and speedily decided : notice required when their lands attached.*] *Rep., Act X of 1861.*

**9. First.**—Any registered proprietor of an estate paying revenue to Government, who may be entertained as a Native officer or soldier [in the Madras Command],<sup>3</sup> shall be at liberty to notify to the Collector the rank which he may hold and the designation of the corps to which he may be attached. A record of such notification shall be inserted by the Collector in the public registers and accounts relative to the estate and its assessment ; and in cases in which the estate, or a portion of the estate, of a Native officer or soldier who may have made such notification shall become liable to public sale for the recovery of an arrear of revenue, the Collector shall address an official letter to the Commanding Officer of the corps drawn in the form prescribed in No. 5 of the Appendix to this Regulation, and shall enclose in such letter a written notice, signed and sealed by himself and attested by the principal Native officer on his establishment, specifying the amount of the arrear and the date on which it became due, and requiring that it be paid at the treasury of the collectorship within such limited period of time as, on consideration of the distance at which the corps may be stationed, and other circumstances of the case, may appear to be proper and reasonable.

Registration of proprietors of *mālguzārī* estates, being Native officers or soldiers.

Collectors how to proceed if such estate become liable to sale for arrear of revenue.

**Second.**—The Commanding Officer of the corps shall acknowledge to the Collector the receipt of his letter, and shall specify the date on which the notice may have been communicated to the party, or the circumstances which may have rendered it impracticable to make such communication.

Commanding Officer how to proceed on receiving notice.

**Third.**—If the Native officer or soldier shall omit to discharge the arrear within the term specified in the notice, the Collector shall report the circumstances of the case to the Board of Revenue, transmitting at the same time a copy of the notice and of his correspondence with the Commanding Officer,

Collectors how to proceed when arrears are not discharged.

<sup>1</sup> Short title "The Madras Revenue Recovery (Military Proprietors) Regulation, 1817"—see the Repealing and Amending Act, 1901 (XI of 1901).

Section 9 of this Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4.

<sup>2</sup> This title has been substituted for the original title by the Repealing and Amending Act, 1901 (XI of 1901)—see the Second Schedule, Part I.

<sup>3</sup> These words in square brackets were substituted for the words "on the Military establishment under the Presidency of Fort St. George" by the Amending (Army) Act, 1894 (XIII of 1894)—see the Second Schedule.

ed in speci-  
ned time.

and shall be guided in his further proceedings by the orders which he may receive in each case from the Board.

10. [Protection of correspondence by Commanding Officers with Courts on the merits of cases.] *Rep., Act X of 1861.*

### APPENDIX.

FORMS NOS. 1 TO 4.

[Repealed by Act XII of 1876.]

FORM No. 5.

To

Commanding Officer of the                      Bat.                      Regt.

SIR,

I HAVE the honour to inform you that the right of [A. B.] in the village [or estate] of                      is about to be sold on account of arrears of public revenue for the year

In conformity with clause first, section 9, Regulation VIII, 1817, I herewith enclose a written notice to be communicated to said to be an officer [or sepoy] in the corps under your command, and who alleged to be the proprietor [or sharer] of the village [or estate] in question.

You are requested to acknowledge the receipt of this letter, and to state on what day the notice may have been communicated by you to the said                      , or the circumstances which may have rendered it impracticable to make such communication.

I am, Sir, etc.,

\_\_\_\_\_  
*Divānī Adālat,                      Judge.*

### MADRAS REGULATION II OF 1819.<sup>1</sup>

[THE MADRAS STATE PRISONERS REGULATION, 1819.]

[4th March, 1819.]

Preamble.

#### A Regulation for the confinement of State Prisoners.

WHEREAS reasons of State policy occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient

<sup>1</sup> Short title, "The Madras State Prisoners Regulation, 1819"—see the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4.

It has been declared in force in the Scheduled Districts in Ganjam and Vizagapatam by notification under s. 3(a) of the Scheduled Districts Act, 1874 (XIV of 1874)—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, 1898, Pt. I, p. 666; in the Rampa Country—see notification No. 1151, Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, 1879, Pt. I, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—see Fort St. George Gazette 1879, Pt. I, p. 722, and Gazette of India, 1879, Pt. I, p. 630.

ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support, according to his rank in life and to his own wants and those of his family; and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamíndárs, taluqdárs and others, situated within the territories dependent on the Presidency of Fort St. George, should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government; the Governor in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort St. George \* \* \*<sup>1</sup>

**2. First.**—When the reasons stated in the preamble of this Regulation may seem to the Governor in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Procedure in placing persons under restraint as State prisoners.

**Second.**—The warrant of commitment shall be according to the form prescribed in the Appendix to this Regulation.

Form of warrant.

**Third.**—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort St. George.

Warrant to be authority for detention of State prisoner. Officers having custody of State prisoners to report to Government.

**3. Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor in Council, through the Chief Secretary to Government, on the conduct, the health and the comfort of such State prisoner, in order that the**

<sup>1</sup> Certain obsolete words have been repealed by Act XII of 1876.



Governor in Council may determine whether the orders for his detention shall continue in force or shall be modified.

**4.** [*State prisoners to be periodically visited.*] *Rep., Act XVI of 1874.*

Representations by State prisoners to be submitted to Government. Report as to their confinement, health and allowances.

**5.** The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor in Council.

**6.** Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family according to their rank in life.

Allowance to be appropriated for support of State prisoner.

**7.** Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

**8.** [*Foregoing provisions made applicable to persons already confined as State prisoners.*] *Rep., Act XII of 1876.*

Attachment of estates by orders of Government when to be communicated to Court.

**9.** Whenever the Governor in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindár, jagúndár, taluqdár or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge of the district in which the lands or estates may be situated. \* \*<sup>1</sup> and to the Sadr and Faujdári Adálat.

Management of attached estates.

**10. First.**—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjusted on the same principles as those of other estates held under khás management.

Not liable to be sold while under attachment.

*Second.*—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Satisfaction of decrees of Courts.

*Third.*—In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Procedure when Government releases estate from attachment.

**11.** Whenever the Governor in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to

<sup>1</sup> Certain obsolete words have been repealed by Act XII of 1876.

adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

## APPENDIX.

### *Form of Warrant of Commitment.*

To the (*here insert the officer's designation*).

WHEREAS the Governor in Council, for good and sufficient reasons, has seen fit to determine that (*here insert the State prisoner's name*) shall be placed under personal restraint at (*here insert the name of the place*), you are hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor in Council and the provisions of Regulation II of 1819.

Fort St. George, the

By order of the Governor in Council.

A. B.,

*Chief Secretary to Government.*

## MADRAS REGULATION IV OF 1821.<sup>1</sup>

[THE MADRAS VILLAGE POLICE REGULATION, 1821.]

[15th June, 1821.]

A Regulation for giving greater efficiency to the system of Police established in the provinces subordinate to the Presidency of Fort St. George.

<sup>2</sup> 1 to 5. [*Extension of authority of amins of police : duties of subordinate officers : inquiries by subordinate officers : powers of Heads of Police to punish certain petty thefts : powers to fine and award compensation.*] *Rep., Act XVII of 1862.*

6. *First*.—The powers granted to heads of villages, under clause first, section 10, Regulation XI of 1816,<sup>3</sup> to punish trivial offences, are hereby <sup>Power to heads of villages to</sup>

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see *Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, 1879, Pt. I, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—see *Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, *ibid.*, p. 722.

<sup>2</sup> It may be noted that s. 4 of this Regulation, which had been repealed by Act XVII of 1862, was revived by the Laws Local Extent Act, 1874 (XV of 1874), Sch. II [General Acts, Vol. II]; the section was, however, subsequently again repealed by Act XII of 1876, Sch., Part I. Section 6 is not referred to in the Second Schedule to Act XV of 1874.

<sup>3</sup> Printed, *supra*.

punish petty  
thefts.

extended, under the rules and limitations therein specified, to the punishment of petty thefts not attended with aggravating circumstances nor committed by persons of notoriously bad character, and where the value of the property stolen does not exceed one rupee.

Report of  
punishment.

*Second.*—Heads of villages shall report to the head Police-officer of the district all cases in which they shall have exercised the power of punishment granted to them by clause first of this section.

**7 to 10.** [*Repeal of Reg. IX of 1816, s. 37: Magistrate and Head of District Police relieved from recording evidence and submitting returns of punishments in petty cases: discretion in regard to the administration of oaths.*] *Rep., Act XVII of 1862.*

### MADRAS REGULATION IV OF 1822.<sup>1</sup>

[THE MADRAS PERMANENT SETTLEMENT (INTERPRETATION)  
REGULATION, 1822.]

[12th July, 1822.]

A Regulation declaring the true intent and meaning of<sup>2</sup> [Regulation XXV of 1802, so far as it relates] to the rights of the actual Cultivators of the soil.

Preamble.

DOUBTS having occurred regarding the meaning and construction of the Regulations enacted for insuring the prompt realization of the rents due and payable by the actual cultivators of the soil, either to the officers of Government on the public account, or to zamindárs or others entitled to receive the same by inheritance or purchase, or in virtue of special grants issued by the ruling authority on terms of a permanent or temporary settlement of the land-revenue; it has become necessary for Government to declare that in passing those regulations it had no intention of authorizing any infringement or limitation of any established rights of any class of its subjects whatsoever, such rights being properly determinable by judicial investigation only. The Honourable the Governor in Council has therefore been pleased to pass the following Regulation.

Intent of  
Regulation  
XXV of 1802,  
declared.

**2.** It is hereby declared that the provisions of<sup>2</sup> [Regulation XXV of 1802, 1802] were not meant to define, limit, infringe or destroy the actual rights

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. General Acts, Vol. II.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid.*, p. 666.

<sup>2</sup> In the title the words and figures "Regulation XXV of 1802, so far as it relates" were substituted for the words and figures "Regulations XXV, XXVIII and XXX of 1802, so far as they relate," and in s. 2 the words and figures "Regulation XXV of 1802" were substituted for the words and figures "Regulations XXV, XXVIII and XXX of 1802" by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 (f) and the Second Schedule.

**1822: Mad. Reg. IV.]** *Permanent Settlement Interpretation.* 53  
**1822: Mad. Reg. VII.]** *Native Public Officers.*  
**1822: Mad. Reg. IX.]** *Revenue Malversation.*

of any description of landholders or tenants; but merely to point out in what manner tenants might be proceeded against, in the event of their not paying the rents justly due from them, leaving them to recover their rights, if infringed, with full costs and damages, in the established Courts of Justice.

#### MADRAS REGULATION VII OF 1822.<sup>1</sup>

[THE MADRAS NATIVE PUBLIC OFFICERS REGULATION, 1822.]

[12th July, 1822.]

A Regulation for declaring that the appointment and removal of the Native Public Servants of Government shall be regulated by such orders as the Governor in Council may from time to time see fit to issue.

*Preamble.* [Recites inconvenience of existing rules regarding removal of Native servants.] *Rep., Mad. Act II of 1869.*

**2.** [Repeal of certain enactments.] *Rep., Mad. Act II of 1869.*

**3. First.**—The appointment and removal \* \* \* of the Native public servants in the revenue, commercial and other public departments under the Government shall be subject to such rules and orders as the Governor in Council in his discretion may from time to time see fit to issue.

Rules to govern appointment and removal of public servants.

*Second.*—[Appointment and removal of law officers.] *Rep., Act XI of 1864.*

#### MADRAS REGULATION IX OF 1822.<sup>2</sup>

[THE MADRAS REVENUE MALVERSATION REGULATION, 1822.]

[20th December, 1822.]

A Regulation for empowering Collectors to take primary cognizance of cases of malversation in revenue affairs; for prescribing the rules to be observed in such investigations, and in the recovery of money embezzled or corruptly received by Public Servants and others amenable to the Collectors' jurisdictions; and for providing for the admission and trial of Appeals from the summary decisions of Collectors in such cases.

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid.*, p. 666.

<sup>2</sup> Certain obsolete words have been repealed by Act XVI of 1874.

<sup>3</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4—see Mad. Reg. VII of 1828, s. 4, *infra*, and Act XXXVI of 1837, *infra*.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid.*, p. 666.

## Preamble.

WHEREAS it is necessary to the security of the revenues of Government and to the welfare of the people, that Collectors should be empowered to make summary inquiry and decision in cases in which it may come to their knowledge that the public servants under their superintendence, or the officers of the village establishments, or any other persons in their behalf, or on any assumed or pretended authority, have embezzled the public money, or made unauthorized collections, or received bribes, or extorted money or other valuable consideration, and that collectors should have power to enforce the judgments they may pass in such cases; and whereas the trial of appeals from such judgments cannot always be made with the necessary expedition, nor without public inconvenience by the regular Courts, and it is therefore expedient to provide that in certain cases Commissioners may be appointed to try such appeals \* \*<sup>1</sup>; the Honourable the Governor in Council has therefore enacted the following rules \* \* \* \*<sup>2</sup>

Collectors authorized to take primary cognizance of cases of malversation in revenue affairs.

**2. First.**—Collectors of the land-revenue are hereby authorized to take primary cognizance of all cases in which persons of any of the several descriptions hereinafter specified shall be accused or suspected of having wilfully committed, or allowed to be committed, any of the acts of malversation particularized in clause second of this section; and, on proof of the guilt of the accused or suspected persons, to inflict on them such punishments as by this Regulation the said Collectors are authorised to adjudge.

Specification of offences cognizable. Exacting or corruptly receiving money, etc., for performance of official acts.

**Second.**—The several classes of the offences cognizable by Collectors under this Regulation are declared to be as follows, namely:—

Levying extra collections.

**1st,** exacting or corruptly receiving, either directly or through the means or agency of any other person, any money or other valuable consideration for doing or procuring to be done any public or official act for which no such payment or gift could be lawfully demanded or received, or for the purpose, or under pretence, of obtaining or securing some undue gain, benefit or advantage to the giver of such money or other valuable consideration;

Embezzling public money.

**2nd,** levying extra and unauthorized cesses or extra collections of any kind not sanctioned by the Regulations nor by the orders of Government, and intended for the private and personal use and profit of the persons levying or causing the same to be levied;

Making false entries in public accounts.

**3rd,**<sup>3</sup> embezzling or fraudulently misappropriating the public money;

**4th,** making false or fraudulent entries in the public accounts or other records, either in regard to the receipt or expenditure of public money in any of the departments under the Collector's superintendence, or concerning the extent, value, classification or assessment of land;

Falsifying, destroying, etc., public accounts.

**5th,**<sup>3</sup> knowingly and wilfully falsifying, destroying or concealing public accounts, or vouchers or documents of any kind immediately relating to the receipt or expenditure of the public money.

<sup>1</sup> Certain words, which are now obsolete, have been repealed by the Repealing and Amending Act, 1901 (XI of 1901).

<sup>2</sup> Certain obsolete words have been repealed by Act XII of 1876, s. 1.

<sup>3</sup> Extended to other public property by Act XXXVI of 1837, printed, *infra*.

*Third.*—The classes or descriptions of persons in regard to whom the Collectors shall have authority to exercise the powers of summary investigation, decision and punishment granted to them by this Regulation are declared to be as follows, namely :—

Persons  
subject to  
Collector's  
authority  
under  
Regulation.

*1st*, all the Native servants of the Collectors' public establishments ;

*2nd*, all head inhabitants, Karnams and their *gamastas*, or persons doing the duty for them, and all other village-officers and servants within their respective collectorates ;

*3rd*, all persons not on the public establishment, whether being in the private service of a Collector, Sub-Collector or Assistant to a Collector, and pretending to act under his or their authority, or whether assuming the character of public officers, or acting or pretending to act under the authority or on the behalf of revenue-servants or village-officers, who shall in any way interfere in the collection or disbursement of the public money, or who shall demand or receive money as public revenue, or as for revenue purposes, or shall exact or receive money or other valuable consideration under pretence of procuring some public act to be done, or some undue advantage to be given by public officers to the persons from whom such money or other valuable consideration shall have been taken.

**3. First.**—Collectors shall have power to summon before them as witnesses all persons whose evidence may appear necessary to the due investigation of the cases referred to in this Regulation, as well for as against the accused or suspected persons, and to require the production of documentary evidence. The summonses to be issued by Collectors for this purpose shall bear their official seal and signature, and shall specify the time and place of the witnesses' attendance ; and, if reference to documentary evidence be required, the summonses shall contain a requisition to the witnesses in whose possession they may be to bring such documents along with them.

Collectors  
empowered  
to summon  
witnesses and  
to require  
production of  
documents.

*Second.*—[*Procedure on refusal of witness to attend or give evidence.*] *Rep., Mad. Act II of 1869.*

*Third.*—If any witness whose evidence is required by a Collector shall reside out of the jurisdiction of the *zila* to which the Collector is amenable, the Collector shall transmit written interrogatories to the Judge of the *zila* in whose jurisdiction the witness may reside, who shall procure the written answers of the witness to such interrogatories, \*\*\*<sup>1</sup> and shall return the same to the Collector. Whenever a witness may be examined on interrogatories in conformity with the foregoing rule, whether on behalf of the Government or of the accused, the opposite party shall have the right of transmitting cross-interrogatories at the same time, and the answers of the witness thereto shall be taken and returned in like manner.

Witnesses  
residing in  
other *zilas* to  
be examined  
by Judge of  
*zila* in which  
they reside.

Cross-interro-  
gatories.

**4.** The investigations which Collectors are authorized to make under this Regulation shall be summary \*\*\*.<sup>1</sup> All documents produced in evidence

Investiga-  
tions under  
this Regula-

<sup>1</sup> Certain obsolete words have been repealed by Act XII of 1876.

tion to be  
summary.  
Rules of  
procedure.

Sentence  
which Col-  
lectors may  
pass on per-  
sons convict-  
ed of  
certain  
offences.

Convicted  
persons to be  
kept in cus-  
tody until  
judgment has  
been satis-  
fied.

Judgments  
of Collectors,  
how exe-  
cuted.

Persons con-  
victed of  
certain other  
offences how  
punishable.

When  
Collectors  
shall make

shall be endorsed by the Collector with his signature or initials, and marked with the date of their production. A summary of the defence shall be recorded and the decision of the Collector, with a brief statement of the grounds on which it is formed, shall be entered on the proceedings.<sup>1</sup>

**5.** <sup>2</sup> *First*.—When persons of any of the descriptions mentioned in clause third, section 2 of this Regulation, shall be convicted before a Collector, or an inquiry conducted under this Regulation, of any of the offences of the first, second or third class specified in clause second of that section, the Collector shall have authority to sentence them to pay any sum not exceeding twice the amount of the money ascertained to have been extorted, unduly received, embezzled or misappropriated.

*Second*.—After a judgment has been passed by a Collector for the payment of money under the foregoing clause, the person against whom such judgment has passed shall be kept in custody until that judgment shall have been satisfied, first, in the Collector's kachari, and afterwards, if necessary, in the zila jail as hereinafter provided.

*Third*.—The judgments of Collectors for the recovery of money under the preceding clause shall be executed in the same manner as decrees of the Courts of Adálat, by a warrant under the official seal and signature of the Collector, which shall specify the name of the person against whom the judgment has passed, the date of the judgment on the Collector's proceedings, and the amount to be levied. In the execution of this warrant the property of the defaulter shall be seized wherever, or in whose possession soever, it may be found. If property, which there is good reason to believe belongs to the defaulter, be claimed by any other person, the same shall nevertheless be attached by the officer charged with the execution of the warrant. If the property so attached be moveable, it shall be brought before the Collector, or, if not moveable, a full report thereof shall be made to the Collector, who will hold a summary inquiry on the claim preferred, or refer such inquiry to a Panchayát. If the property be proved to belong *bond fide* to the defaulter, a particular account of its nature and value shall be entered on the Collector's proceedings, after which he shall order it to be sold in like manner as the rest of the property attached under the warrant of execution.

*Fourth*.—When any of the before-mentioned persons shall be convicted of any of the offences of the fourth or fifth class specified in clause second, section 2 of this Regulation, the Collector shall impose such fine, not exceeding five hundred rupees, as may appear reasonable; and, in default of payment of such fine, he shall further sentence the offender to imprisonment for a period not exceeding twelve months, or until the said fine shall have been paid.

**6.** In cases where no examination of witnesses may be necessary—as where money actually delivered in charge to a public servant has been embezzled, or

<sup>1</sup> As to powers of Board of Revenue, see Mad. Reg. III of 1823, s. 2, cl. 2. *infra*.

<sup>2</sup> As to appeals from orders under this section and s. 6, see Mad. Reg. VII of 1828, s. 6, *infra*.

is not forthcoming when called for, and the amount embezzled has been clearly ascertained by reference to the public accounts of the kachari—Collectors shall make in writing a demand of the specific amount due by such public servant, and, on his refusing or neglecting to satisfy the demand, shall proceed to recover the amount by distraint and sale of the defaulter's property, and, if necessary, by imprisonment of the defaulter's person, in the same manner as for the recovery of arrears of revenue.

specific demand.

Further procedure in such cases.

7. Whenever a Collector shall be about to institute an inquiry under this Regulation, if he shall have good reason to believe that the accused or suspected person has concealed or collusively transferred, or is about to conceal or collusively transfer, his property, for the purpose of evading such order or judgment as may eventually be passed after such inquiry, the Collector is hereby authorized to call on such person to give security to such amount as he may consider sufficient to provide for the fulfilment of the judgment that may be eventually passed; and, in default of good and sufficient security being given as required, he shall be authorized to attach the property of the accused or suspected person, and to hold the same in attachment until judgment shall have been passed in the said inquiry.

When Collectors may call on suspected persons to give security for fulfilment of judgment.

Procedure when security is not given.

The warrant of attachment to be issued in such cases shall follow the property of the accused or suspected person, wherever or in whose possession soever it may be found.

In the event of property seized under this section being claimed by any other person, the Collector shall proceed as directed in like cases in clause third, section 5 of this Regulation.

8. In all cases where an accused or suspected person has refused or neglected to deposit security, according to the Collector's requisition, as provided in section 7, and in all cases where a judgment has passed under the provisions of clause first, section 5 of this Regulation, as well as where a defaulter has failed to satisfy the public demand against him, made under the provisions of section 6 of this Regulation, it shall be competent to a Collector to issue a proclamation, requiring all persons holding property belonging to the defaulter to surrender the same to him within a specified period, not being less than fifteen days; after the publication of such proclamation, and after the expiration of such specified period, any person who may be convicted of having fraudulently concealed or collusively received such property shall be sentenced to pay a fine not exceeding three times the amount of the value of the property so fraudulently concealed or collusively received by such person, and to be imprisoned until such fine be paid.

When Collector may issue proclamation requiring property of defaulters to be surrendered.

Punishment for concealing such property.

The Criminal Judge shall levy the amount of the fine by the usual process, and, in the event of the full amount of the fine not being realized, shall commit the offender to confinement in the zila jail; provided, however, that the

<sup>1</sup> Certain obsolete words have been repealed by Act XII of 1876.



period of confinement under this section shall in no case exceed twelve calendar months.

When Collectors may issue search-warrants for discovery of papers or accounts.

**9.** If information<sup>1\*\*</sup> shall be given before a Collector that revenue papers or accounts, or papers and accounts respecting frauds or embezzlements in the public revenue, have been fraudulently concealed and deposited in any particular premises, he shall be competent to issue warrants under his own official seal and signature, addressed to one or more public officers of his establishment, commanding search to be made on the premises for the discovery of such papers or accounts.

Search-warrants how executed.

Search-warrants thus issued shall be executed between sunrise and sunset only, and, where practicable, in the presence of two or more respectable inhabitants of the village in which the house or place authorized to be searched may be situated; a full and perfect list of all papers and other things whatsoever seized in virtue of such warrants shall be made out in duplicates on the spot; both copies shall be signed by the officer executing the warrant, and by the inhabitants or witnesses present; one copy of such list shall be given to the occupier of the house, or some person on his behalf, and the other shall be annexed to the warrant when returned to the Collector:

Provided, however, that nothing contained in these rules shall be construed to authorize any but females to enter the zenana or apartments of the women in houses belonging to those classes whose women do not ordinarily appear in public.

Property how sold in satisfaction of judgments of Collectors.

**10.** Whenever it may be necessary to sell property in satisfaction of an order of judgment of the Collector under the provisions of this Regulation, the sale shall be conducted by the Tahsildár, or other public servant to whom the Collector may delegate that duty \* \* \* <sup>1</sup>.

**11.** [*Judgment of Collector under s. 4 not to be executed till sanctioned by Board of Revenue.*] *Rep., Mad. Reg. III of 1823.*

Reimbursement of persons from whom money is unjustly received. Persons reporting exaction within two months to be repaid.

**12.** A discretionary authority shall be vested in Collectors, subject to the approval and sanction of the Board of Revenue, to pay to persons from whom money has been exacted or unjustly received the whole of such part of the sum recovered under the provisions of this Regulation as may appear proper on consideration of the circumstances of the case: provided, moreover, that such persons shall be entitled in all cases to receive back whatever they may have so given to a public servant of Government, if they shall inform the Collector, Subordinate Collector or Assistant of such exaction or undue receipt of money within two months after its payment or delivery by the said informants.

Persons against whom inquiry is going on may be kept under restraint.

**13. First.**—Collectors are authorized to keep under restraint any persons against whom they may have instituted an inquiry under the provisions of this Regulation, either by placing peons over the dwelling-house of any such

<sup>1</sup> Certain obsolete words have been repealed by Act XII of 1876.

persons, to prevent their escape, or, if necessary, by confinement in the kachari; and, if judgment be given against such persons, then to continue the restraint until the amount adjudged has been paid by them, or the amount realized by sale of the property attached in satisfaction of the order or judgment.

*Second.*—In the event of no property of a person against whom an order or judgment has been passed under this Regulation being forthcoming, or not sufficient to pay the amount due by him, the Collector shall forward the defaulter or offender to the Zila Court, and shall at the same time furnish the Government vakil of the said Court with instructions to present a motion to the Judge for his confinement until the amount due, which shall be distinctly stated in the said motion, shall have been discharged, or until the Collector shall again move the Court for his release. The Zila Judge shall receive such motion whether in or out of Court, and shall order the confinement of the party accordingly, and the Judge shall not discharge him from confinement except on his paying the full amount mentioned in the Collector's motion, or on application from the Collector.

When defaulters may be imprisoned.

**14.** [*Appeals to Governor in Council.*] *Rep., Mad. Reg. VII of 1828, s. 5.*

**15.** *First.*—[*Appointment of Commission to revise Collector's proceedings.*] *Rep., Mad. Reg. VII of 1828, s. 5.*

*Second.*—A Commission appointed under this Regulation shall be vested generally with the same powers as Zila Courts under the Regulations in force, so far as such powers are necessary to the full and efficient discharge of the duties to be executed. The proceedings of the Commission are to be governed by the rules and maxims of justice, and in all points not expressly provided for in this Regulation the provisions contained in the general Regulations are to be observed as far as they may be consistent and applicable.

Powers of Commission appointed under this Regulation.

*Third.*—The Commission shall call for and examine the proceedings and evidence recorded by the Collector on the summary inquiry which preceded, and on a full consideration of the whole of the evidence shall decide whether the judgment or order passed by the Collector, and appealed from, was just and equitable, or, if otherwise, in what particulars it was erroneous; and shall order the repayment, with reasonable interest, of any sum which had been adjudged by the Collector to be due and payable, but which the Commission shall find not to have been so due, and shall order the repayment of such sum, with reasonable interest; and, if any property had been sold in satisfaction of such order or judgment of the Collector, the Commission, in revising the order or judgment, shall determine the amount of compensation to be paid on account of such property so sold; and shall further have authority to adjudge such reasonable costs and charges as may appear sufficient to compensate the complainant for any loss or injury sustained, or for unjust detention of the complainant, or for actual charges or expenses incurred.

Commission how to proceed. How judgment to be given.

Commission to forward proceedings to Government.

*Fourth.*—When the proceedings shall have been closed, or as soon afterwards as circumstances will admit, the Commission shall forward the whole of the proceedings and evidence, with the final judgment on the case, to the Governor in Council.

Decisions of Commissions final. Government to determine how compensation shall be paid.

*Fifth.*—The decisions of Commissions under this Regulation shall be final. But it shall rest with the Governor in Council to determine, in the case of compensation being awarded under the foregoing clause, whether the amount shall be paid from the public treasury, or whether (as in cases where the proceedings of the Collector on the primary inquiry shall appear to have been unfair and unjustifiable, or where he may appear to have been culpably negligent in regard to the mode of disposing of the complainant's property) the whole or any part of such compensation shall be made good by the Collector who conducted the primary inquiry and the proceedings in execution of the summary judgment.

Holding property in attachment pending appeal. Release of appellant on giving security.

*Sixth.*—If the petition of appeal from a summary judgment of a Collector passed under this Regulation be presented before the property which may have been attached has been sold, such property, or any part that may still be unsold, shall be held in attachment pending the appeal; and where the property attached may be sufficient for the security of the amount adjudged by the Collector on the primary inquiry, or where the party appealing may give good and sufficient security for the ultimate fulfilment of the Collector's judgment, he shall be released from confinement pending the investigation by the Commission.

Decree of Commission how executed.

*Seventh.*—If the decree of the Commission confirm the judgment of the Collector, the decree shall be executed in like manner as the decree of a Court of Adálat; and, if the amount finally adjudged be not paid, the appellant and his sureties, where he may have given the security of others, shall be committed to the zila jail by an order of the Commissioner or Commissioners bearing his or their signature, and specifying the amount to be levied; and such order shall be a sufficient warrant to the Zila Judge to receive such persons into the zila jail, and to keep them there until the amount decreed against them be fully paid, or until the Collector, under the orders of the Board of Revenue or of Government, apply for their release.

Suits grounded on proceedings of Collector when receivable by Court.

<sup>1</sup> **16.** No suit grounded on the summary proceedings of a Collector under this Regulation, either in the form of an original complaint against such Collector, on account of any supposed injustice in conducting such proceedings, or of an appeal from his judgment, shall be received by any Court of Adálat, unless the plaint or petition is accompanied by the order referred to in *clause second, section 14 of this Regulation*,<sup>2</sup> remitting the party complaining to seek his redress in the Courts of Adálat.

<sup>1</sup> The provisions of this section are now supplemented by Mad. Reg. III of 1832, s. 2, *infra*.

<sup>2</sup> For the words in italics now read " clause second, section 6 of Regulation VII of 1828 " —see Mad. Reg. III of 1832, s. 2, *infra*.

1822: Mad. Reg. IX.] *Revenue Malversation.*

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1823: Mad. Reg. III.] *Revenue Malversation Amendment.*

17 & 18. [*Powers of Criminal Judges and Courts of Circuit.*] *Rep., Act XII of 1876.*

19. [*Repeal of Regulation XXXIII of 1802.*] *Rep., Mad. Act II of 1869.*

## MADRAS REGULATION III OF 1823.<sup>1</sup>

[THE MADRAS REVENUE MALVERSION (AMENDMENT) REGULATION, 1823.]

[8th August, 1823.]

<sup>2</sup> A Regulation to supplement the provisions of the Madras Revenue Malversation Regulation, 1822.

WHEREAS the reference to the Board of Revenue required by section 11, Preamble, Regulation IX of 1822, to be made by Collectors before any judgment passed by them under section 4 of that Regulation can be carried into execution, has been found inconvenient in practice and otherwise objectionable, and it is expedient that the said rule be rescinded, and that the Board of Revenue be vested with general power to suspend the execution of any judgment so passed which to them may seem improper; the Honourable the Governor in Council has been pleased to enact the following rules \* \* \*<sup>3</sup>

2. *First.*—[*Repeal of Regulation IX of 1822, section 11.*] *Rep., Mad. Act II of 1869.*

*Second.*—Collectors will transmit such periodical or occasional reports of judgments passed under section 4 of the above-quoted Regulation as the Board of Revenue may direct. And it shall be competent to the Board of Revenue, whenever they may see fit, to order that any such judgment be not carried into execution, and to pass such further order on the case as to them may seem equitable and just.

3. [*Powers of Assistant and Subordinate Collectors under Regulation IX of 1822.*] *Rep., Mad. Reg. VII of 1828, s. 2.*

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. General Acts, Vol. II.

<sup>2</sup> This title was substituted for the original title by the Repealing and Amending Act, 1901 (XI of 1901)—see s. 3 and the Second Schedule.

<sup>3</sup> Certain obsolete words have been repealed by Act XII of 1876.

MADRAS REGULATION VII OF 1828.<sup>1</sup>

[THE MADRAS SUBORDINATE COLLECTORS AND REVENUE MALVERSATION (AMENDMENT) REGULATION, 1828.]

[18th April, 1828.]

A Regulation for declaring the powers of Subordinate and Assistant Collectors in charge of particular divisions of districts, and for facilitating proceedings under Regulation IX, 1822.

Preamble.

WHEREAS the efficient discharge of the functions of Collectors requires that Subordinate and Assistant Collectors should be empowered to exercise within their divisions all the powers of the Collector, but subject, nevertheless, to their revision and correction; and further, that Collectors should have authority to refer for investigation, under certain restrictions, to their sarishtadars and deputy sarishtadars when absent from the huzur<sup>2</sup> kachari, and also to their tahsildars within their respective tahsildaris, certain of the cases cognizable by themselves under Regulation IX, 1822; and also that petitions of appeal against judgments and orders passed under the same Regulation should be preferred within a limited time, and should be finally decided upon by the Board of Revenue instead of the Governor in Council as at present; therefore the Governor in Council has enacted this Regulation \* \* \*.<sup>2</sup>

2. [Repeal of Regulation III of 1823, s. 3.] *Rep., Mad. Act II of 1869.*

Powers  
exercisable  
*ex officio* by  
Subordinate  
Collector in  
charge of  
division.  
Authority of  
Collectors  
to delegate  
powers.

3. *First.*—A Subordinate or Assistant Collector<sup>3</sup> in charge of a particular division of a district shall *ex officio* have authority to exercise within the division under his charge all the powers granted to Collectors by the Regulations now in force, or that may be hereafter enacted, unless the contrary shall be expressly declared in any Regulation.

*Second.*—Collectors shall have authority to delegate, at their discretion, in writing under their official signature, any of the powers granted to them by any Regulation now in force, or that may be hereafter enacted, to any of their Subordinates or Assistants not in charge of a particular division of a district

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. General Acts, Vol. II.

The whole Regulation has been declared, under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see Notification No. 1151, Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid*, p. 723.

The whole Regulation, except s. 6, has been declared, by notification under s. 3 (a) of the same Act, to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid*, p. 666.

Section 6 of the Regulation has been declared, by notification under s. 3 (b) of the same Act, not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 872, and Fort St. George Gazette, 1898, Pt. I, p. 667.

The whole Regulation has been extended, by notification under s. 5 of the last-mentioned Act, to the Taluqs of Bhadrachalam and Rakapilli—see Notification No. 1150, Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid*, p. 722.

<sup>2</sup> Certain obsolete words have been repealed by Act XII of 1876.

<sup>3</sup> For meaning of expressions "Subordinate Collector" and "Assistant Collector" see Mad. Act VII of 1914, s. 4, *infra*.

or to any of their Subordinates or Assistants in charge of a particular division beyond the limits of the division under his charge.

*Third.*—The proceedings of Subordinate and Assistant Collectors acting under the preceding clauses shall be subject, in all cases, and in the fullest manner, to the superintendence, control and revision of the Collector, who shall have power either to direct, generally, that the proceedings of any of his Subordinates or Assistants shall be regularly submitted to himself before the decision, order or sentence is carried into execution, and to confirm, modify or annul them, or issue any further orders in the cases, as he may see fit; or in any particular case to direct that the decision, order or sentence of any of his Subordinates or Assistants shall not be carried into execution, and to pass such further orders as he may see fit.

*4. First.*—Collectors are empowered, at their discretion, to refer for investigation to their sarishtadars and deputy sarishtadars when detached from the huzur kachari, and also to their tahsildars, within their respective tahsildaris, all cases of a petty nature cognizable by themselves under Regulation IX, 1822.<sup>1</sup>

*Second.*—Native officers employed under the preceding clause shall have the same powers as are granted to Collectors by clause first, section 3, Regulation IX, 1822<sup>1</sup>; but witnesses shall not be examined by them on oath.

*Third.*—If any person duly summoned by them shall not attend as required, or attending shall refuse to give evidence, or if any person whose evidence is required shall reside out of the limits of the collectorate, the Native officer employed shall report the circumstance to the Collector, who shall proceed thereupon in the manner required by clauses second and third, section 3, Regulation IX, 1822.<sup>1</sup>

*Fourth.*—Native officers employed under this section shall take down in writing all the evidence given before them, and shall transmit their original proceedings to the Collector, who shall thereupon pass sentence, or order further evidence to be taken if he deem it necessary; provided always that Collectors shall not have authority to pass sentence against a party convicted, on an inquiry by any of the Native officers above-mentioned, of any of the offences of the first, second or third class specified in clause second, section 2, Regulation IX, 1822,<sup>1</sup> adjudging him to pay a sum exceeding fifty rupees, or to impose a fine exceeding that amount upon a party convicted, on such an inquiry, of any of the offences of the fourth or fifth class specified in the same clause and section.

*5. [Repeal of portions of Regulation IX of 1822.] Rep., Mad. Act II of 1869.*

*6. First.*—Whenever a person against whom a judgment or order shall have passed under the provisions of section 5 or section 6, Regulation IX, 1822,<sup>1</sup> shall conceive himself aggrieved by such decision, he shall be at liberty

<sup>1</sup> Printed, *supra*.

(Controlling powers of Collectors.

Cases which Native officers may be employed to investigate.

Their powers when so employed.

Procedure when persons summoned by them do not attend, etc.

Their proceedings.

Restriction on Collectors' power to pass sentence.

Appeal against decisions of Collectors

at any time within three months from the date of such judgment or order, to present to the Collector a petition of appeal addressed to the Board of Revenue, which petition the Collector shall forthwith forward to the Board. The petition shall be written on unstamped paper, and shall state the grounds on which the petitioner deems himself aggrieved and the redress or relief to which he considers himself entitled.

Boards of  
Revenue how  
to proceed  
on appeals.

*Second.*—On receipt of such petition the Board of Revenue, after making such inquiry as they may judge necessary, will either direct the relief prayed for by the petitioner to be granted, or will report the case for the orders of the Governor in Council, or will simply reject the petition by endorsement under the hand of their secretary, referring the party complaining to seek redress, if he thinks proper, in the established Courts of Adalat.

Procedure of  
Government  
in cases  
reported by  
Board.

*Third.*—In cases reported by the Board of Revenue for the orders of the Governor in Council, in which it shall appear to the Governor in Council that further investigation is necessary, he will appoint one or more commissioners to revise the original proceedings, and will order the commission to sit at such place as may appear to be most convenient; and the provisions of section 15, Regulation IX, 1822,<sup>1</sup> shall be applicable to such commission.

7. [*Disposal of pending appeals.*] *Rep., Act XII of 1876.*

#### MADRAS REGULATION V OF 1829.<sup>2</sup>

[THE MADRAS HINDU WILLS REGULATION, 1829.]

[25th August, 1829.]

A Regulation for modifying section 16, Regulation III, 1802,<sup>1</sup> and for declaring the legal force of Wills left by Hindus within the territories subject to the Presidency of Fort St. George to be dependent on their conformity to the Hindu Law, according to the Authorities prevalent in the respective Provinces under this Government.

Preamble.

WHEREAS \* \* \* \* \* [clause second of section 16 of the Madras Administration of Estates Regulation, 1802,<sup>5</sup>] directs that, on the death of a

<sup>1</sup> Printed, *supra*.

<sup>2</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. General Acts, Vol. II.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid.*, p. 666.

<sup>3</sup> Certain words and figures, repealed by the Repealing and Amending Act, 1901 (XI of 1901), s. 3, are omitted.

<sup>4</sup> These words and figures in square brackets were substituted for the words “ clause second of the said section ” by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 and the Second Schedule.

<sup>5</sup> Madras Regulation III of 1802, *supra*.

Hindu leaving a will, his executors "are to take charge of the estate of the deceased and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country"; and whereas this \* \* \* enactment is at variance both with the Hindu law, according to the Authorities prevalent within these territories, and with the \* \*<sup>1</sup> obligation imposed on the Courts to administer justice to the Natives in the said matters according to their own laws, and it is therefore expedient that the same should be modified, the Governor in Council has therefore enacted this Regulation \* \* \* \*<sup>2</sup>.

2. [*Repeal of Regulation III of 1802, s. 16, cl. 2, so far as it applies to Hindus.*] *Rep., Mad. Act II of 1869.*

3. The rules contained in clauses third, fourth, fifth, sixth and seventh, section 16, Regulation III, 1802,<sup>3</sup> \* \* \*<sup>2</sup> respecting the estates of Hindus dying intestate, are hereby declared equally applicable to the cases of Hindus dying and leaving wills.

Rules applicable to estates of Hindus dying and leaving wills. Wills of Hindus to be in conformity to Hindu law.

4. Wills left by Hindus within the territories subject to this Government shall have no legal force whatever, except so far as their contents may be in conformity with the provisions of the Hindu law, according to the Authorities prevalent in the respective Provinces under this Presidency.

MADRAS REGULATION I OF 1830.<sup>4</sup>

[THE MADRAS SATI REGULATION, 1830.]

[2nd February, 1830.]

A Regulation for declaring the practice of Sati, or of burning or burying alive the Widows of Hindus, illegal, and punishable by the Criminal Courts.

THE practice of sati, or of burning or burying alive the widows of Hindus, is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed; in some extensive districts it does not exist: in those in which it has been most frequent it is notorious that

<sup>1</sup> Certain words and figures, repealed by the Repealing and Amending Act, 1901 (XI of 1901), s. 3, are omitted.

<sup>2</sup> Certain obsolete words have been repealed by Act XII of 1876.

<sup>3</sup> Printed *supra*.

<sup>4</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. Compare Ben. Reg. XVII of 1829 of the Bengal Code, Vol. I, Ed. 1913.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid.*, p. 666



in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves, and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations, the Governor in Council, without intending to depart from one of the first and most important principles of the system of British government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted, to be in force \* \*<sup>1</sup> throughout the territories immediately subject to the Presidency of Fort St. George.

Sati declared  
illegal and  
punishable.

2. The practice of sati, or of burning or burying alive the widows of Hindus, is hereby declared illegal, and punishable by the Criminal Courts.

Zamindars,  
etc., respon-  
sible for im-  
mediate com-  
munication  
to police of  
intended  
sacrifice.

3. *First.*—All zamindárs, taluqdárs or other proprietors of land, whether málguzárá or lákhiráj, all sadr farmers and under-renters of land of every description, all dependent taluqdárs, all náibs and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section; and any zamíndár, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and, in default of payment, to be confined for any period of imprisonment not exceeding six months.

Penalty in  
case of  
neglect.

Police how  
to act on  
receiving  
intelligence  
of intended  
sacrifice.

*Second.*—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the head of police shall either repair in person to the spot, or depute one of his subordinate officers, accompanied by one or more peons of the Hindu religion, and it shall be the duty of the Police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime and become subject to punishment by the Criminal Courts. Should the parties assembled proceed, in defiance of these remonstrances, to carry the ceremony into effect, it shall be the duty of the Police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting

\* Certain unnecessary words have been repealed by Act XII of 1876.\*

in the performance of it ; and, in the event of being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

*Third.*—Should intelligence of a sacrifice, declared illegal by this Regulation, not reach the Police-officers until it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

How to act when intelligence of sacrifice does not reach them until after it has taken place.

4. *First.*—On the receipt of the reports required to be made by the heads of police under the provisions of the foregoing section, the Magistrate or Joint Magistrate of the jurisdiction in which the sacrifice may have taken place, shall inquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it to trial \* \*<sup>1</sup>

Magistrate how to proceed against parties concerned.

*Second.*—It is hereby declared that, after the promulgation of this Regulation, all persons convicted of aiding and abetting in the sacrifice of a Hindu widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not, shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine or by imprisonment, or by both fine and imprisonment, \* \*<sup>1</sup> according to the nature and circumstances of the case, and the degree of guilt established against the offender ; nor shall it be held to be any plea of justification that he or she was desired by the party sacrificed to assist in putting her to death.

Persons abetting sacrifice guilty of culpable homicide.

*Third.*—Persons committed to take their trial \* \*<sup>1</sup> for the offence above-mentioned shall be admitted to bail or not at the discretion of the Criminal Judge, subject to the general rules in force in regard to the admission of bail.

Discretion of Judge to admit to bail or not.

5. It is further deemed necessary to declare that nothing contained in this Regulation shall be construed to preclude the Court of Fauzdári Adalat from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindu widow<sup>2</sup> while labouring under a state of intoxication or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the prisoner, the Court may see no circumstances to render him or her a proper object of mercy.

Court of Fauzdári Adalat may pass sentence of death in certain cases.

<sup>1</sup> Certain unnecessary words have been repealed by Act XII of 1876.

<sup>2</sup> 'Woman' in Clarke's edition

MADRAS REGULATION V OF 1831<sup>1</sup>.

[THE MADRAS STAMP PENALTIES REGULATION, 1831.]

[24th May, 1831.]

A Regulation to modify and amend the provisions in force for the recovery of the penalties prescribed for certain breaches of the stamp laws.

**1 to 6.** [*Recital of inconvenience of recovery of certain fiscal penalties by civil suit only : penalties to be recoverable by criminal prosecution : procedure to be adopted by Magistrates : mode of levying penalties : trial ex parte revision by Courts of Circuit and Court of Faujdári Adálat.*] Rep., Mad. Act II of 1869.

**7. First.**—[*Repeal of Regulation XIII of 1816, s. 19, cl. 2.*] Rep., Mad. Act II of 1869.

Recovery of  
fine for filing  
documents  
not written  
on prescribed  
stamp.

**Second.**—Whenever a petition, pleading or other document, which may not have been written on the prescribed stamp, shall be filed in any Court of Justice or in the office of any Collector or other public officer, or whenever it shall appear that a copy of any paper or proceeding shall have been furnished on paper not bearing the prescribed stamp, the Judge or Judges of the Court, the Collector or other public officer shall call upon the ministerial officer by whom such petition or other document was filed, or by whom such copy shall have been furnished, to show cause why the prescribed fine should not be imposed upon him; and on his failure to show good cause shall forthwith proceed in the ordinary manner to levy from him the penalty prescribed.

**8.** [*Foregoing provisions not to be retrospective.*] Rep., Mad. Act II of 1869.

MADRAS REGULATION VI OF 1831.<sup>2</sup>

[THE MADRAS HEREDITARY OFFICES REGULATION, 1831.]

[3rd June, 1831.]

A Regulation to prevent the misappropriation of the emoluments annexed by the State to hereditary village and other offices in the Revenue and Police Departments, and to maintain the due efficiency of those offices.

[Rep. except in the Scheduled Districts, by Mad. Act III of 1895, *infra*.]

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

Section 7, cl. 2, of this Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. General Acts, Vol. II.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid.*, p. 666.

<sup>2</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation has been declared in force, under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 630.

It has been extended, under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—see Gazette of India, 1879, Pt. I, p. 630.

It has been declared under s. 3 (b) of the same Act not to be in force in the matters of Guditeru and Ducharti in the Godavari Agency tracts—see Gazette of India, 1908, Pt. I, p. 667.

MADRAS REGULATION X OF 1831.<sup>1</sup>

[THE MADRAS SALE OF MINORS' ESTATES REGULATION, 1831.]

[2nd September, 1831.]

A Regulation to prohibit the sale of estates belonging to Minors not under the charge of the Court of Wards, and to extend the provisions of section 20, Regulation V, 1804, to property of every description not subject to the jurisdiction of that Court.

WHEREAS doubts have been entertained as to the liability of the estate<sup>2</sup> of a minor not taken under the management of the Court of Wards, to be sold for arrears of revenue; and whereas it is considered expedient, for the due protection of the property of minors and other incapacitated persons, that the provisions of section 20, Regulation V, 1804, should be extended to property of every description not subject to the jurisdiction of that Court, the following rules have been enacted \* \* \*<sup>3</sup>

Preamble.

2. *First*.—From and after the date of the promulgation of this Regulation, no estate, the property of a minor, and descended to him by the regular course of inheritance, not under the charge of the Court of Wards, shall during his minority, be sold for arrears of revenue accruing subsequently to his accession to the same.

Minor's property not to be sold for arrears accruing after his accession.

*Second*.—It shall be competent to the Court of Wards to assume charge of such estates at any time during the minority of the proprietor, notwithstanding they may have originally refrained from interfering.

Court of Wards may take charge of estates at any time during minority.

3. [*Provisions extended to all property not subject to Court of Wards.*] *Rep. by the Guardians and Wards Act, 1890, VIII of 1890, s. 2 and Schedule.*

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.*, p. 722.

<sup>2</sup> Certain unnecessary words have been repealed by Act XII of 1876.

MADRAS REGULATION III of 1832<sup>1</sup>.

[THE MADRAS REVENUE MALVERSION (AMENDMENT) REGULATION, 1832.]

[2nd March, 1832.]

A Regulation for limiting the period within which complaints or appeals preferred under section 16, Regulation IX, 1822, shall be admissible in the Courts of Adálat.

## Preamble.

WHEREAS by clause first, section 6, Regulation VII, 1828<sup>2</sup>, a petition of appeal to the Board of Revenue against a judgment or order passed under the provisions of section 5 or section 6, Regulation IX, 1822<sup>2</sup>, is required to be preferred within the limited period of three months from the date of such judgment or order, but no limitation is prescribed as to the time within which a party who has preferred an appeal accordingly, and has been referred, under clause second of the same section, to seek redress in the established Courts of Adálat, may apply to such Courts; and it is deemed expedient to supply this omission, and to limit the time within which a complaint or appeal preferred under section 16, Regulation IX, 1822<sup>2</sup>, shall be admissible in the Courts of Adálat to the same period of three months, the Governor in Council has been pleased to enact the following Regulation, to be in force from the date of its promulgation.

Limitation of  
suits and  
appeals under  
section 16,  
Reg. IX,  
1822.

2. In modification of section 16, Regulation IX, 1822<sup>2</sup>, it is hereby provided that no suit, either in the form of an original complaint, or of an appeal, shall be received in any Court of Adálat under that section, unless the plaint or petition is accompanied by the order referred to in clause second, section 6, Regulation VII, 1828<sup>2</sup>, under the hand of the Secretary to the Board of Revenue, and is preferred within three months from the date of the delivery of the order.

Date of  
delivery to  
be certified.

3. The date of the delivery of the order is to be certified by the officer delivering it by an endorsement on the petition on which the order is written.

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation has been declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4, General Acts, Vol. II.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid.*, p. 666.

<sup>2</sup> Printed, *supra*.

## PART II.

### LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN MADRAS.

ACT No. XXXVI of 1837<sup>1</sup>.

[THE MADRAS PUBLIC PROPERTY MALVERSATION ACT, 1837.]

[20th November, 1837.]

1.<sup>2</sup> \* \* \* The jurisdiction vested in Collectors, Subordinate Collectors and Assistant Collectors, by Regulations IX of 1822 and VII of 1828<sup>3</sup> of the Madras Code, in cases of embezzlement of public money, and of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall extend to cases of the embezzlement of any public property or the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property, by any person of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822.

Extension of jurisdiction of Collectors and their subordinates in cases of embezzlement, etc., to similar offences by persons of certain classes.

2. \* \* \* \* All provisions of either of the said Regulations IX of 1822 and VII of 1828,<sup>3</sup> which apply to cases of the embezzling of public money, shall apply to cases of the embezzling of public property whatever, by persons of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822: “\* \* \* all provisions of either of those Regulations, which apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property whatever, by persons of any of the said classes.”

Extension of enactments relating to embezzlement, etc., to similar offences by persons of certain classes.

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. General Acts, Vol. II.

It has also been declared, under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, 1898, Pt. I, p. 666.

<sup>2</sup> The words and figures “It is hereby enacted, that from the fifteenth day of December, 1837,” were repealed by the Repealing Act, 1870 (XIV of 1870).

<sup>3</sup> Printed, *supra*.

<sup>4</sup> The words “It is hereby enacted that” and the words “and that” in the second clause were repealed by the Repealing Act, 1874 (XVI of 1874), and the words “from the said day,” which occurred immediately before the opening words of the section as it now stands, were repealed by the Repealing Act, 1870 (XIV of 1870).

ACT No. VII OF 1839.<sup>1</sup>

[THE MADRAS RENT AND REVENUE SALES ACT, 1839.]

[18th March, 1839.]

1. [Repeal of Reg. XXVIII of 1802, s. 23.] *Rep., Act XIV of 1870.*Tahsildárs  
empowered  
to sell  
property  
distrained.

2. \* \* \* All tahsildárs within the territories subject to the Presidency of Fort St. George shall be vested with the powers of Commissioners for the sale of property distrained for arrears of rent or of revenue, and shall be subject to all rules and provisions to which by any law or regulation such Commissioners are subject.

Control of  
tahsildárs  
in exercise  
of such  
power.

3. Provided always that in respect of the exercise of those powers tahsildárs shall be subject to the control and superintendence of the Collector, and shall not be subject to the authority of the Zila Judge, except in the case of any judicial proceedings.

4. [Their liabilities in exercise of same power.] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Fees for sell-  
ing property  
to be credited  
to Govern-  
ment.

5. Provided also that tahsildárs shall not be entitled to any fee or commission for selling such distrained property; but that all fees or commission which may be now lawfully taken by Commissioners for the sale of such distrained property shall be taken and carried to the account of Government.

Delegation  
of tahsildárs'  
powers.

6. And it is hereby enacted that tahsildárs shall have authority, subject to the orders of the Collector, to delegate the powers vested in them by the second section of this Act to any public servants placed under their authority; and that the provisions of <sup>2</sup>[sections 3 and 5] of this Act shall apply to all public servants to whom those powers shall have been so delegated in the same manner as they apply to tahsildárs.

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. General Acts, Vol. II.

It was extended, under s. 5 of the Scheduled Districts Act, 1874, to the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 872; and to the Scheduled Districts in Godavari except the Nugar Taluq—see *ibid.*, 1910, Pt. I, p. 1161.

<sup>2</sup> The words "And it is hereby enacted that from the said day" were repealed by the Repealing Act, 1873 (XII of 1873).

<sup>3</sup> The words and figures in square brackets have been substituted for the words "the three last preceding sections" by the Amending Act, 1891 (XII of 1891). General Acts, Vol. IV.

ACT No. XXIV OF 1839.<sup>1</sup>

[THE GANJAM AND VIZAGAPATAM ACT, 1839.]

[2nd October, 1839.]

An Act for the administration of justice and collection of the Revenue in certain parts of the Districts of Ganjam and Vizagapatam.

1. [*Repeal of Act XXIII of 1836.*] *Rep., by the Repealing Act, 1870 (XIV of 1870).*

2. \* \* \* The operation of the rules for the administration of civil and criminal justice, as well as those for the collection of the revenue, shall cease to have effect, except as hereinafter mentioned, within the undermentioned tracts of country at present included in the Districts of Ganjam and Vizagapatam :—

## IN THE DISTRICT OF GANJAM.

*Zamíndáris.*

Pálúru.  
Hummá.  
Biridi.  
Kallikóta.  
Pratápagiri.  
Mohari.  
Vijayanagaram.  
Háthagada.  
Brahmanórachi.  
Chíkati.  
Mandasa.  
Súrangi.  
Jaraḍá.  
Jalantra.  
Budárasangi.  
Dhárakóta.  
Boḍagaḍa.  
Sherugaḍa.  
Tarlá.  
Parlákimidi.

*Amáni Estates.*

Gumsará.  
Suradá.  
Áská.  
Pomary (*leg. Komari?*).  
Kurlá.

## IN THE DISTRICT OF VIZAGAPATAM.

*Ancient Zamíndáris.*

Vijayanagaram.  
Bobbili.

*Hill Zamíndáris.*

Jayapúram.  
Kurubhám.  
Sanganivalasa.  
Chemudum.  
Páchipenta.  
Ándhram.  
Sarvapalli-bhímavaram.  
Sálúru.  
Mádugula.  
Belgám.  
Mérangi.

*Under Amáni.*

Pálakonda.  
Gólakonda.

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

<sup>2</sup> The words "And it is hereby enacted, that from and after the said first day of December, 1839," were repealed by the Repealing Act, 1874 (XVI of 1874).



Administra-  
tion of civil  
and criminal  
justice in  
those  
districts.

**3. \* \* \***<sup>1</sup> The administration of civil and criminal justice (including the superintendence of the Police), and the collection and superintendence of the revenues of every description within the tracts of country specified in the foregoing section which are now included in the district of Ganjam, shall be vested in the Collector of Ganjam, and within those which are now included in the District of Vizagapatam in the Collector of Vizagapatam, and shall be exercised by them respectively as Agents to the Governor of Fort St. George.

Power to pre-  
scribe rules  
for Govern-  
ment Agents.

**4. \* \* \***<sup>1</sup> It shall be competent to the Governor in Council of Fort St. George, by an order in Council, to prescribe such rules<sup>2</sup> as he may deem proper for the guidance of such Agents, and of all the officers subordinate to their control and authority, and to determine to what extent the decision of the Agents in civil suits shall be final, and in what suits an appeal shall lie to the Sadr Adálat, and to define the authority to be exercised by the Agents in criminal trials,<sup>3</sup> and what cases he<sup>4</sup> shall submit for the decision of the Faujdári Adálat.

Judgment in  
criminal  
trials referred  
by Agents to  
Faujdari  
Adálat.

**5. \* \* \***<sup>1</sup> Upon the receipt of any criminal trials referred by either of the Agents under the rules which may be hereafter prescribed by the Governor in Council, the Faujdári Adálat shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the Court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a Judge on circuit.

Appeals to  
Sadr Adálat  
from decrees  
of Agents.

**6. \* \* \***<sup>1</sup> Upon the receipt of any appeal from a decree of either of the Agents, under the rules to be prescribed as aforesaid, the Court of Sadr Adálat shall proceed to try and determine it in the same manner as appeals from the Provincial Courts.

Commit-  
ments by  
Agents.

**7. \* \* \***<sup>2</sup> Each of such Agents as aforesaid shall have the power of making commitments by warrant under his hand which is possessed by the Governor of Fort St. George in Council by virtue of Regulation II of 1819<sup>6</sup> of the Madras Code: Provided that the third,<sup>6\*</sup> fifth, sixth and seventh sections of that Regulation shall remain in force and be applicable to commitments under this Act: Provided also that, in every case in which either of such Agents shall make any such commitment, he shall transmit immediately a report to the Governor in Council of Fort St. George for his orders.

Report of  
commit-  
ments.

Power to  
alter limits  
of tracts.

**8. \* \* \***<sup>1</sup> It shall be competent to the Governor in Council of Fort St. George, by an Order in Council, to make, from time to time

<sup>1</sup> In ss. 3 to 8 the words "And it is hereby enacted that" were repealed by the Repealing Act, 1874 (XVI of 1874).

<sup>2</sup> For rules for the guidance of the Governor's Agents in Ganjam and Vizagapatam, *see: infra*, Appendix, Pt. IV; and Fort St. George Gazette, 1910, Pt. I, pp. 863, 1624.

<sup>3</sup> For notifications authorizing Agents to exercise the powers of a Sessions Judge, *see: Madras List of Local Rules and Orders*, Ed. 1912, p. 306.

<sup>4</sup> *Sic.* Read "they."

<sup>5</sup> Printed, *supra*.

<sup>6</sup> The word "fourth" was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

\* \* \* \* \*<sup>1</sup> such alterations in the limits of the tracts within the afore-said districts placed under the jurisdiction of the said Agents, respectively as he may deem expedient.<sup>2</sup>

ACT No. VIII of 1840.<sup>3</sup>

[THE MADRAS PANCHÁYATS ACT, 1840.]

[13th April, 1840.]

An Act concerning the signing of awards by the members of Pancháyats.

It is hereby enacted that in cases where the minority of the members of a Panchayat, held under the provisions of the Madras Code,<sup>4</sup> may decline to sign the award of the panchayat, the signature or mark of the majority shall be sufficient to give legal validity to the award: Provided always that in such cases it shall be incumbent on such majority to admit the minority to record and attest by their mark or signature their reasons for declining to sign or mark the award passed by the majority.

ACT No. VI of 1844.<sup>5</sup>

[THE MADRAS INLAND CUSTOMS ACT, 1844.]

[16th March, 1844.]

An Act for \* <sup>6</sup>the levy of \* \* <sup>6</sup> inland customs-duties, \* \* \*  
\* \* <sup>6</sup> within the territories subject to the Government of  
Fort Saint George.

**1 to 5.** [*Repeal of all Madras Regulations imposing inland transit town duties, and certain sea-customs duties: saving of tolls: duties on imports into*

<sup>1</sup> The words "with the previous sanction of the Governor General of India in Council" were repealed by Mad. Act I of 1865.

<sup>2</sup> For instance of such an alteration, see Fort St. George Gazette, 1863, p. 946.

<sup>3</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. General Acts, Vol. II.

<sup>4</sup> See Mad. Reg. V of 1816, s. 7, printed, *supra*.

<sup>5</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Act was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4. General Acts, Vol. II.

So far as regards the Madras Presidency, the unrepealed provisions of this Act relating to the levy of duties and to dutiable goods apply to duties levied, and goods liable to duty, under s. 5, (sub-section, (1), cl. (b), of the Indian Tariff Act—see the Indian Tariff Act, 1894 (VIII of 1894), s. 8, printed, General Acts, Vol. IV.

<sup>6</sup> The words "abolishing," "transit or" and "for revising the duties on imports and exports by sea, and for determining the price at which salt shall be sold for home consumption" were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

and exports from Madras Ports.] Rep., by the Repealing Act, 1868 (VIII of 1868.)

6. [Duties on goods passing by land into or out of foreign European settlements on the line of coast within the Madras Presidency.] Rep., by the Repealing Act, 1874, XVI of 1874.

7. [Power of Governor in Council to declare territories of Native Chiefs to be foreign territory.]<sup>1</sup> Rep., by the Land Customs (Madras and Bombay) Act, 1869 (XI of 1869).

Customs-chaukis for levy of customs-duties on certain goods. Powers of officers at chaukis. Goods not to pass frontier-line without certificate.

8. \* \* \* \* <sup>2</sup> For the levy of duties of customs as above provided on goods exported by land to, or imported by land from, such foreign territories, customs-chaukis may be established<sup>3</sup> at such places as may be determined by the said Governor in Council, and every officer at every such chauki shall have power to detain goods passing into or out of any such foreign territory, and to examine and ascertain the quantities and kinds thereof; and such goods shall not be allowed to pass across the frontier-line out of or into the territory of the East India Company, until the owner or person in charge thereof shall produce and deliver a certificate showing that the customs-duty leviable thereupon has been paid in full.

Appointment of officers to collect duties and grant certificates of payment.

9. \* \* \* \* <sup>2</sup> It shall be lawful for the said Governor in Council to appoint such officers as he may think fit to receive money on account of customs-duties, and grant certificates of the payment thereof, and such a certificate being delivered to any chauki-officer shall entitle goods to cross the frontier into or out of the East India Company's territories, provided that the goods correspond in description with the specification thereof contained in such certificate, and that the certificate shows the entire amount of duty leviable on those goods to have been duly paid; and, if upon examination the goods brought to any chauki be found not to correspond with the specification entered in the certificate presented with the same, the difference shall be noted on the face of the certificate, and, if the payment of duty certified therein shall not cover the entire amount of duty leviable on the goods as ascertained at such examination, the goods shall be detained until a further certificate for the difference shall be produced.

Procedure when goods found not to correspond with certificate.

Appointments of officers to be notified.

10. \* \* \* \* <sup>2</sup> The said Governor in Council shall give public notice in the official Gazette of the Presidency of Fort Saint George of the appointment of every officer appointed to receive customs-duties on goods crossing the land-frontier of the said foreign territories, and the officers so appointed shall, on receipt of money tendered as customs-duty, be bound to give to any merchant or other person applying for the same a certificate of payment, and to enter therein the specification of goods, with the values, and description thereof, according to the statement furnished by the person so applying,

Officers bound to grant certificates on receipt of proper duty.

<sup>1</sup> See new s. 5 (2) of the Indian Tariff Act, 1894 (VIII of 1894). General Acts, Vol. IV.

<sup>2</sup> The words "And it is hereby enacted that" were repealed by the Repealing Act, 1874 (XVI of 1874).

<sup>3</sup> For notification establishing such stations, see Fort St. George Gazette, 1879, Pt. I. p. 838.

provided only that the proper duty leviable thereupon, according to the descriptions and values stated, be covered by the payment made.

11. \* \* \* \*<sup>1</sup> No certificate shall be received at any chauki that shall bear date more than thirty days before the date when the goods arrive at the chauki: Provided, however, that any person who has taken out a certificate from any authorized receiver of customs-duties shall at any time within the said period of thirty days, on satisfying such receiver that such certificate has not been used, and on delivering up the original, be entitled to receive a renewed certificate with a fresh date, without further payment of duty.

Ante-dated  
certificates  
not received.

When fresh  
certificate to  
be granted.

12. \* \* \* \*<sup>1</sup> It shall be lawful for the said Governor in Council to prescribe by public notice in the official Gazette of the Presidency of Fort St. George by what routes<sup>2</sup> goods shall be allowed to pass into or out of any such foreign territory as is described in sections 6 and 7 of this Act,<sup>3</sup> and, after such notice shall be given, goods which may be brought to any chauki established on other routes or passes than those so prescribed shall, if provided with a certificate, be sent back, and if not provided with a certificate shall be detained, and shall be liable to confiscation by the Collector of Customs, unless the person in-charge thereof shall be able to satisfy the said Collector that his carrying them by that route was from ignorance or accident.

Notification  
of routes by  
which goods  
may cross  
frontier.

Goods there-  
after brought  
by other  
routes  
liable to  
detention or  
confiscation.

13. \* \* \* \*<sup>1</sup> Goods which may be passed, or which an attempt may be made to pass, across any frontier guarded by chaukis between sunset and sunrise<sup>4</sup> or in a clandestine manner, shall be seized and confiscated.

Goods cross-  
ing clandes-  
tinely to be  
confiscated.

<sup>5</sup> [Provided that this section shall not apply to the passing (otherwise than in a clandestine manner) between sunset and sunrise of all or any specified class of goods across any frontier by any specified route, if the Government has, by notification in the official Gazette, permitted the passing of such goods across such frontier by such route.]

14. \* \* \* \*<sup>1</sup> Any chauki-officer who shall permit goods to pass across the frontier when not covered by a sufficient certificate, or who shall permit goods to pass by any prohibited route, shall be liable, on conviction before the Collector of Customs, to imprisonment for a term not exceeding six months, and to a fine not exceeding five hundred rupees, commutable, if not paid, to imprisonment for a further period of six months.

Penalty for  
permitting  
goods to  
cross without  
certificate, or  
by prohibited  
route.

15. \* \* \* \*<sup>1</sup> If any chauki-officer shall needlessly and vexatiously injure goods under the pretence of examination, or in the course of his ex-

Penalty for  
vexatiously  
injuring or

<sup>1</sup> The words "And it is hereby enacted that" were repealed by the Repealing Act, 1874 (XVI of 1874).

<sup>2</sup> For notifications prescribing such routes, see Fort St. George Gazette, 1894, Pt. I, p. 1363.

<sup>3</sup> i.e., (1) Foreign European settlements situated on the line of coast within the limits of the Presidency of Fort St. George, and (2) territory of certain Native Chiefs not subject to the jurisdiction of the Courts and Civil Authorities of that Presidency, and declared by the Governor in Council, by notice in the Gazette, to be foreign territory—see new s. 5 (2) of the Indian Tariff Act, 1894 (VIII of 1894), printed, General Acts, Vol. IV.

<sup>4</sup> For notification permitting the passing of goods between certain customs-stations, see Fort St. George Gazette, 1894, Pt. I, pp. 1354 and 1355, and *ibid*, 1896, Pt. I, pp. 12 and 637.

<sup>5</sup> The proviso to s. 13 was added by the Madras Land Customs Act (1844) Amendment Act, 1893 (II of 1893), printed *infra*.

wrongfully  
detaining  
goods.

amination, or shall wrongfully detain goods for which there shall be produced a sufficient certificate, such officer shall, on conviction before the Collector of Customs, or before any Magistrate or Joint Magistrate, be liable to imprisonment for a term not exceeding six months, and to fine not exceeding five hundred rupees, commutable, if not paid, to imprisonment for a further period of six months.

**16.** [*Duty on goods imported by sea from foreign European settlements and certain Native States.*] Rep. by the Land Customs (Madras and Bombay) Act, 1869 (XI of 1869).

**17 to 41.** [*No dutiable goods to be exempted except under special order of Government: certain provisos: valuation of goods: goods to be landed only at gazetted ports: manifests of cargo: penalties: obligation to receive Customs-officers on board: goods landed to be covered by boat-notes: liability to confiscation in certain cases.*] Rep. by VI of 1863, s. 2, except so far as they relate to duties leviable on salt and opium.

**42.** [*Repeal.*] Rep. by the Repealing Act, 1868 (VIII of 1868).

**43.** [*Price of salt in Madras.*] Rep. by the Salt Act, 1877 (XVIII of 1877).

**44 & 45.** [*Power of Governor General in Council to remit such price: duty-paid salt may be landed at any port.*] Rep. by the Salt (Madras and Bombay) Act, 1869 (XXIV of 1869), s. 1.

**46 to 68.** [*Periods allowed for loading and discharging cargoes: port-clearances: duty on re-landed cargoes: rules regarding coasting and country craft: trans-shipped goods: powers of Collector of Customs: Customs-officers amenable in certain cases to Civil Courts: penalties: powers of Governor in Council.*] Rep. by the Consolidated Customs Act, 1863 (VI of 1863), s. 2.

#### SCHEDULES A AND B.

*Rep. by the Indian Tariff Act, 1871 (XIII of 1871).*

Schedules A, B and C were repealed by the Repealing Act, 1868 (VIII of 1868), Schedules A and B were again repealed by the Indian Tariff Act, 1871 (XIII of 1871),

#### ACT No. X OF 1849.<sup>1</sup>

[THE MADRAS REVENUE COMMISSIONER ACT, 1849.]

[26th May, 1849.]

An Act for appointing a Commissioner of Revenue at Madras.

Preamble.

WHEREAS it is expedient that the Governor of Fort St. George in Council

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared to be in force in the whole of the Madras Presidency, except the Scheduled Districts—see the Laws Local Extent Act, 1874 (XV of 1874), s. 4, printed, General Acts, Vol. II.

Under s. 3 (b) of the Scheduled Districts Act, 1874 (XIV of 1874), it has been declared that the Act is not in force in the Scheduled Districts in Canjam and Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 872.

should be empowered to depute a Member of the Board of Revenue to perform in any of the districts of that Presidency all or any of the duties which, by the general Regulations and laws of the Presidency, belong to the Board of Revenue collectively; It is enacted as follows :—

1. The Governor of Fort St. George in Council may, from time to time whenever he shall see fit, depute a Member of the Board of Revenue to perform alone, in any of the districts of that Presidency, all or any of the duties which, by the general Regulations and laws of the Presidency, belong to the Board of Revenue collectively. Power to depute Member to perform duties of Board.

2. When a special commission shall be given to a Member of the Board of Revenue under this Act, the Member of the Board named therein shall, by virtue thereof, be empowered to exercise, within the limits of his commission, all the powers and duties which by law are vested in the Board of Revenue collectively, without exception, or subject to any exceptions or restrictions which shall be prescribed in such commission; and all Regulations and Acts concerning the Board of Revenue shall be deemed to apply to the said Commissioner within the limits of his commission, and with regard to all things concerning the revenues of the district included in it, so far as is necessary to give full effect to his commission and to this Act. Powers of Member so deputed. Enactments applied to Commissioner.

3. Every such commission shall be published in the Fort St. George Gazette, and the Commissioner shall enter on his office from the date of such publication; and in like manner the revocation or other determination of any such commission shall be published in the Fort St. George Gazette. Publication of commission, and revocation thereof.

4. The correspondence and other documents belonging to any such commission shall be deposited, on the determination thereof, in the office of the Board of Revenue, and shall be deemed records of the said Board. Deposit of records.

#### ACT No. XII OF 1851.<sup>1</sup>

[THE MADRAS CITY LAND-REVENUE ACT, 1851.]

[14th November, 1851.]

An Act for securing the Land-revenue of Madras.

WHEREAS it is expedient that the land-revenue accruing due to the East India Company at Madras<sup>2</sup> [within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras], should be ascertained

<sup>1</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901). The Land-revenue (Madras Town) Act, 1867 (Mad. Act VI of 1867), is to be read with, and taken as part of, this Act—see s. 33 of that Act, printed *infra*.

<sup>2</sup> The words within brackets were substituted for the words “within the limits of the Town of Madras as defined in section 12, Regulation II of 1802 of the Madras Code” by the Amending Act, 1891 (XII of 1891), printed, General Acts, Vol. IV.

and collected in as summary a manner as in other parts of the territories under the Government of the East India Company ; It is enacted as follows :—

Assessment  
of unassessed  
lands in  
Madras  
Town.

**1.** All assessable lands not the property of the East India Company [within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras], of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rates customarily charged upon lands of a similar description in the neighbourhood according as they may be situated respectively within or without the walls of Black Town.

Lákhiráj  
tenures.

**2.** Lákhiráj tenures of land in Madras, of which uninterrupted possession has been held under alleged grants, exempt or partially exempt from assessment for sixty years, shall be valid ; no other lákhiráj tenures of land in Madras shall be deemed valid, unless the same are or shall be held under an unexpired grant from the British Government.

Rate of  
assessment.

**3.** The Collector of Madras shall determine the rate of assessment to be laid on assessable land under section 1 of this Act, with reference to the rate assessed upon other land of a similar description in the neighbourhood, subject to an appeal to the Board of Revenue, to be made within six months from the notification by the Collector of the assessment fixed by him. The decision of the Board of Revenue upon such appeal shall be final.

Appeal.

Power to  
order mea-  
surement.

**4.** The Collector may order any assessable land, or land already assessed or charged with a rent payable to the East India Company, to be measured, for the purpose of determining the amount of assessment to be imposed, or in the case of land already assessed or charged with a rent, for the purpose of ascertaining whether the actual dimensions, and the dimensions upon which the amount of assessment or rent was calculated, correspond.

Abatement  
for land  
assessed be-  
yond actual  
dimensions.

**5.** Whenever, upon the measurement of any land under the preceding section, it shall be found that the dimensions upon which the amount of assessment or rent was calculated exceed the actual dimensions, a proportionate abatement shall be made for the excess, on the demand of the party entitled to claim it.

Charge for  
land in excess  
of quantity  
assessed.

Saving of  
right of  
holder from  
whom excess  
is usurped.

**6.** On the other hand, when the actual dimensions exceed the dimensions upon which the amount of assessment or rent was calculated, the excess shall be charged at the same rate as the rest of the land, the possession being left undisturbed : Provided that, when it shall appear that the excess has been caused by the surreptitious usurpation of ground belonging to another tenure, the act of the Collector in assessing it shall not prejudice the holder of such other tenure in any effort he may make to recover the ground usurped from it.

Appeal  
against extra  
assessment.

An appeal shall lie to the Board of Revenue against any extra assessment or additional rent charged by the Collector for excess by measurement under this section, if preferred within six months from the date of the Collector's order. Upon such appeal the decision of the Board of Revenue shall be final.

<sup>1</sup> See second footnote on preceding page.

7. [Recovery by distress and sale.] *Rep. by the Land-revenue (Madras Town) Act, 1867 (Mad. Act VI of 1867), s. 2.*

8. In the case of payment by any tenant or occupier not holding immediately under the East India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.

*Deduction from land-lord's rent, of payment by under-tenant.*

9. The claim of the East India Company for land-revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable.

*Priority of Government claim for land-revenue.*

10. If the Collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector.

*Deposit of amount of disputed claim.*

11. Arrears of rent or revenue due to the East India Company are recoverable within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable, or his agent, and not afterwards.

*Limitation of claim to arrears.*

12. When a claim to hold land *lákhiráj*, or free of assessment, shall be set up under this Act, the Collector shall inquire into the claim, taking such evidence as the claimant may offer or the public records supply, and shall report his proceedings in the case for the consideration of the Board of Revenue.

*Inquiry into claim to hold land rent-free, and report to Board.*

If the Board of Revenue are satisfied of the validity of the claim, they shall make an order accordingly, and such order shall be final. If they are not satisfied of the validity of the claim, they shall direct the Collector to assess the land, leaving the claimant to contest the Collector's demand in the Civil Courts, as herein provided.

*Procedure thereupon.*

13. Any person obstructing or molesting the Collector or any of his subordinate officers in the execution of their duty shall, on conviction before a Magistrate of the town of Madras, be liable to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the common gaol for a term not exceeding six months, or until the fine is sooner paid.

*Penalty for obstructing Collector or his subordinates.*

14. The Collector may punish any contempt committed in his presence in open *kachari* or office, by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the common gaol for a term not exceeding one month.

*Collector's power to punish contempt.*

From every such order of fine or imprisonment an appeal shall lie to the Board of Revenue, whose decision shall be final.

*Appeal from his orders.*

15. The Collector shall act in the execution of this Act under the usual control of the superior revenue-authorities.

*Control of Collector.*

16. The ground-rents payable to the East India Company from lands in Madras are revenue within the meaning of the Act of Parliament, 21 Geo. III, cap. 70<sup>1</sup>; and the Supreme Court of Judicature established by Royal Charter

*Exemption of questions relating to ground-rents from civil jurisdiction of Supreme Court.*

<sup>1</sup> The East India Company Act, 1870 (21 Geo. 3, c. 70), printed, Collection of Statutes relating to India, Vol. I



at Madras<sup>1</sup> has not any civil jurisdiction concerning the said ground-rents, or concerning anything ordered or done in the assessment or collection thereof.

Jurisdiction  
of civil  
Courts in  
Chingleput  
in suits  
against  
Revenue-  
officer.

Limitation.

**17.** All actions concerning any trespass or injury committed by any Revenue-officer, acting under colour of this Act, or concerning any claim in respect of any goods taken by, or any moneys paid to, any Revenue-officer under this Act, or concerning any claim of rent or revenue on the part of the East India Company under this Act, shall be tried and determined in the Civil Courts established by the East India Company in the Zila of Chingleput, notwithstanding that the cause of action in respect of which such action is brought arose, or the defendant therein reside, within the limit of the town of Madras, and every such action shall be brought within six months after the cause of action arose, and not afterwards.

"Collector"  
and "Board  
of Revenue"  
defined.

**18.** The words "Collector" and "Board of Revenue" used in this Act shall be taken to mean any person or persons lawfully appointed to exercise the powers vested in the Collector and Board of Revenue, respectively, under this Act.

### ACT No. XXIV OF 1854.<sup>2</sup>

(THE MALABAR WAR-KNIVES ACT, 1854.)

[28th October, 1854.]

An Act to prohibit the possession of certain offensive weapons in  
Malabar.

Preamble.

WHEREAS it is expedient to prohibit the possession of certain offensive weapons in the District of Malabar, in the Presidency of Fort St. George; It is enacted as follows:—

Use of war-  
knives prohi-  
bited.

Fine for pos-  
sessing, pur-  
chasing, etc.,  
war-knives.

**1.** The use of the ayudha katti or war-knife, or of any similar offensive weapon, is hereby prohibited throughout the District of Malabar. \* \* \*

**2.** \* \* \* Any person who shall be found in possession of any ayudha katti or war-knife or of a similar offensive weapon, or who shall purchase, or sell, or manufacture, or cause to be manufactured, any ayudha katti or war-knife or similar weapon, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both; and the said war-knife or weapon shall be confiscated.

<sup>1</sup> This provision applies to the present High Court, established by the Indian High Courts Act, 1861 (24 & 25 Vict., c. 104), s. 11, printed, Collection of Statutes relating to India, Vol. I.

<sup>2</sup> The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

<sup>3</sup> The words *from* "and every person" *to* the end of the section, which provide for the surrender of weapons at a certain date, were repealed by the Repealing Act, 1870 (XIV of 1870).

<sup>4</sup> The words "After such date" in s. 2 were repealed by the Repealing Act, 1870 (XIV of 1870).

3. It shall be lawful for the Magistrate of Malabar to cause search to be made by his Police-officers, acting under his warrant, in any house or other place in which any ayudha katti or war-knife, or any similar offensive weapon, may be supposed to be, contrary to this Act; and any such ayudha katti or war-knife which shall be found may be seized and confiscated.

Power to search for war-knives.

It shall also be competent to the Magistrate, at his discretion, to delegate to any of his European Assistants the powers conferred by this section.

Any person who shall resist or oppose such search or seizure, or forcibly withstand any Police-officer charged with such warrant, shall be liable to the same penalties as if such person had opposed or resisted the execution of a warrant for the search after stolen goods.

Penalty for resisting search.

#### ACT No. VII of 1857.<sup>1</sup>

[THE MADRAS UNCOVENANTED OFFICERS ACT, 1857.]

[1st May 1857.]

An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.

WHEREAS the exigencies of the public service require the more extended employment of uncovenanted officers in the Revenue and Judicial Departments in the Presidency of Fort St. George; It is hereby enacted as follows:—

Preamble.

1. The Governor of Fort St. George in Council may appoint, in any zila or district within the said Presidency, one or more uncovenanted Deputy Collectors and Deputy Magistrates with the powers hereinafter mentioned.

Power to appoint uncovenanted officers.

2. [Official oath or declaration.] *Rep. by Indian Oaths Act, 1873 (X of 1873).*

3.<sup>2</sup> [Duties and powers of Deputy Collector.] *Rep. by Mad. Act, VII of 1914, s. 2.*

4. [Duties and powers of Deputy Magistrates.] *Rep. by Act XVII of 1862.*

<sup>1</sup> The short title, "The Madras Uncovenanted Officers Act, 1857" was given by the Repealing and Amending Act, 1901 (XI of 1901).

Act VII of 1857 is repealed, so far as it relates to Deputy Magistrates, by the Repealing Act, 1873 (XII of 1873). It was declared to be in force in the whole of the Madras Presidency, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4, printed, General Acts, Vol. II.

Under s. 3 (b) of the Scheduled Districts Act, 1874 (XIV of 1874), the Act has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 872.

<sup>2</sup> As to placing of Deputy Collectors in charge of divisions of districts—see Mad. Act VII of 1914, *post*.

One officer  
may hold  
both offices.

Rules re-  
garding dis-  
missal of  
Deputy Col-  
lectors.

5. Nothing in this Act contained shall be held to disqualify any uncovenanted officer appointed under this Act from holding at the same time the offices of Deputy Collector and Deputy Magistrate.

6. A Deputy Collector or Deputy Magistrate appointed under this Act shall not be dismissed from office without the sanction of the Governor in Council. Whenever there may be reason to believe that a Deputy Collector or Deputy Magistrate is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the Collector or Magistrate through the proper channel for the consideration and orders of the Governor in Council, who shall be competent to suspend such Deputy Collector or Deputy Magistrate and order a further inquiry into his conduct, or to direct his immediate dismissal, as may appear just and proper.

— — — — —  
 ACT No. XXVII OF 1857.<sup>1</sup>

[THE MADRAS UNIVERSITY ACT, 1857.]

[5th September, 1857.]

An Act to establish and incorporate an University at Madras.

Preamble.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Fort St. George and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Madras for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science and Art, and of rewarding them by Academical Degrees as evidence of their respective attainments, and marks of honor proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated; It is enacted as follows:— \* \* \*

Incorporation.

1. The following persons, namely:—

The Right Honourable GEORGE FRANCIS ROBERT, LORD HARRIS,  
Governor of Fort St. George;

The Honourable SIR CHRISTOPHER RAWLINSON, Knight,  
Chief Justice of the Supreme Court of Judicature at Madras;

The Right Reverend THOMAS DEALTRY,  
Doctor of Divinity, Bishop of Madras, *ex-officio*;

<sup>1</sup> The short title, "The Madras University Act, 1857" was given by the Repealing and Amending Act, 1901 (XI of 1911).

The Act is also printed in the General Acts, Vol. I.

<sup>2</sup> The words "that is to say" were repealed by the Repealing Act, 1876 (XII of 1876). Sch., Pt. I.

The Honourable SIR PATRICK GRANT, Lieutenant-General, Knight Commander of the Most Honourable Order of the Bath,  
Commander-in-Chief of the Forces in Madras, *ex-officio* ;

The Honourable WALTER ELLIOT,  
Member of the Council of Madras, *ex-officio* ;

The Honourable SIR HENRY CUNNINGHAM MONTGOMERY, Baronet,  
Member of the Council of Madras, *ex-officio* ;

ALEXANDER JOHN ARBUTHNOT, Esquire,  
Director of Public Instruction, *ex-officio* ;

EYRE & BURTON POWELL, Esquire,  
Principal of the Presidency College, *ex-officio* ;

HENRY FORTEY, Esquire,  
Acting Principal of the Presidency College, *ex-officio* ;

JAMES KELLIE, Esquire,  
President of the Medical College Council, *ex-officio* ,

The Honourable SIR HENRY DAVISON, Knight,  
Puisne Judge of the Supreme Court of Judicature at Madras ;

THOMAS PYCROFT, Esquire,  
Chief Secretary to Government ;

EDWARD MALTRY, Esquire,  
Acting Chief Secretary to Government ;

JAMES DEWAR BOURDILLON, Esquire,  
Secretary to Government ;

HENRY FORBES, Esquire,  
Acting Secretary to Government ;

Colonel CHARLES ALFRED BROWNE,  
Secretary to Government ;

JAMES BLAIR PRESTON, Esquire,  
Physician General ;

The Reverend ROBERT HALLEY, Master of Arts,  
Principal of the Doveton College ;

J. TOWNSHEND FOWLER, Esquire,  
Principal of the Government Normal School ;

- P. SOOBROYOOLOO NAIDOO,  
President of Patcheapah's Institution ;
- WILLIAM AMBROSE MOREHEAD, Esquire,  
Provisional Member of the Council of Madras ;
- GUY LUSHINGTON PRENDERGAST, Esquire,  
Accountant General ;
- Colonel ARTHUR THOMAS COTTON,  
Commandant of Engineers ;
- Colonel CHARLES EDWARD FABER,  
Chief Engineer in the Department of Public Works ;
- Lieutenant-Colonel THOMAS TOWNSEND PEARS,  
Companion of the Most Honourable Order of the Bath,  
Consulting Engineer for Railways ;
- Lieutenant-Colonel GEORGE BALFOUR,  
Companion of the Most Honourable Order of the Bath ;
- The Reverend JOHN RICHARDS, Master of Arts ;
- Lieutenant-Colonel FREDERICK CONYERS COTTON,  
Acting Mint Master ;
- CHITTUR RENGANADUM SASTRY,  
Head Interpreter in the Supreme Court of Judicature ;
- JOHN EMELIUS MAYER, Esquire,  
Professor of Chemistry and Pharmacy in the Madras Medical College ;
- The Reverend ROBERT KERR HAMILTON, Master of Arts ;
- The Reverend GEORGE HALL, Master of Arts ;
- The Reverend PETER SORENSON ROYSTON, Bachelor of Arts ;
- JAMES SANDERSON, Esquire,  
Surgeon in the Madras Army ;
- The Reverend JOHN BRAIDWOOD, Master of Arts ;
- JOHN DAWSON MAYNE, Bachelor of Arts,  
Professor of Law, Moral and Mental Philosophy, and Logic in the  
Presidency College ;
- RICHARD BURGASS, Esquire, Master of Arts,  
First Judge of the Court of Small Causes ;

Lieutenant-Colonel JOHN JOSEPH LOSH, Military Auditor General ;

WILLIAM JUDSON VANSOMEREN, Esquire, Doctor in Medicine,  
Professor of Anatomy and Physiology in the Madras Medical College ;

SAMUEL JESUDASEN, Native Surgeon ;

Major JOHN MAITLAND, Superintendent, Gun Carriage Manufactory ;

The Reverend A. BURGESS ;

The Reverend W. GRANT ;

being the first Chancellor, Vice-Chancellor and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Madras ;

and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within the territories \* \* \* \* <sup>1</sup> under the government of \* \* <sup>1</sup> India \* \* <sup>1</sup>

2. The <sup>2</sup> \* \* Body Corporate shall be able and capable in law to take, purchase and hold any property, moveable or immoveable, which may become vested in it for the purposes of the <sup>2</sup> \* \* University by virtue of any purchase, grant, testamentary disposition or otherwise ; and shall be able and capable in law to grant, demise, alien or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the <sup>2</sup> \* \* University ; and also to do all other matters incidental or appertaining to a Body Corporate.

Power to hold and dispose of property.

3. <sup>3</sup> \* \* \* \* \*, if any person, being Chancellor, Vice-Chancellor or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

Constitution of Body Corporate. Senate. Office vacated by leaving India.

4. The Governor of Fort St. George for the time being shall be the Chancellor of the said University \* \* \* \* \*

<sup>1</sup> The words " in the possession and," the words " the East," and the word " Company " were repealed by the Repealing and Amending Act, 1891 (XII of 1891), printed, General Acts, Vol. VI, p. 32,— see the first Schedule.

<sup>2</sup> The word " said " was repealed by the Indian Universities Act, 1904 (VIII of 1904), s. 29— see General Acts, Vol. VI.

<sup>3</sup> The first sentence and the words " Provided that " in section 3 were repealed by *ibid.*

<sup>4</sup> The words at the end of s. 4 declaring the Right Hon'ble George Francis Harris to be the first Chancellor were repealed by the Repealing Act, 1876 (XII of 1876), Sch. Pt. I.

Vice-Chancellor.

**5.** The office of Vice-Chancellor shall be held for two years only. \* \* \* \*  
\* \* <sup>1</sup> Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time or otherwise, the Governor of Fort St. George in Council shall, by notification in the Fort St. George Gazette, nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy: Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor of Fort St. George in Council shall have power to re-appoint \* \* \* \* <sup>2</sup> any future Vice-Chancellor to such office.

**6.** [*Fellows.*] *Rep. Act VIII of 1904, s. 29.*

The appointment of a Fellow may be cancelled.

**7.** The Governor of Fort St. George in Council may cancel the appointment of any person already appointed or hereafter to be appointed a Fellow of the University, and, as soon as such order is notified in the *Gazette*, the person so appointed shall cease to be a Fellow.

Chancellor, Vice-Chancellor and Fellows to superintend the affairs of the University.

**8.** The Chancellor, Vice-Chancellor and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns and property of the said University; and, in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University.<sup>3</sup> \* \* \* \* \*

[*Sections 9 to 14.*] *Rep. Act VIII of 1904, s. 29.*

Fees.

**15.** The said Chancellor, Vice-Chancellor and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor of Fort St. George in Council, shall from time to time see fit to impose. Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University under the directions and regulations of the Governor of Fort St. George in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor of Fort St. George in Council may direct.<sup>4</sup>

Annual accounts.

<sup>1</sup> The words "providing that the First Vice-Chancellor shall vacate office on 1st January 1859," were repealed by the Repealing Act, 1876 (XII of 1876), Sch., Pt. I.

<sup>2</sup> The words "the Vice-Chancellor hereinbefore nominated or" were repealed by the Repealing Act, 1876 (XII of 1876), Sch., Pt. I.

<sup>3</sup> Section 8, except the first sentence, was repealed by the Indian Universities Act, 1904 (VIII of 1904), s. 29—see General Acts, Vol. VI.

<sup>4</sup> For notification directing that the Accountant General, Madras, shall perform such examination and audit, see that noted on p. 303 of the Madras Local Rules and Orders, Ed. 1912.

ACT NO. I OF 1858.<sup>1</sup>

[THE MADRAS COMPULSORY LABOUR ACT, 1858.]

[20th January, 1855.]

An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.

WHEREAS the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers and canals, and of anicuts and other like works ; and it is necessary for the common good to make it obligatory on persons of the labouring classes, when duly called upon, to unite their labour to prevent such breaches, or to repair them instantly ; and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on village-communities, to furnish the labour required for the execution of certain works for the purpose of irrigation and drainage ; It is enacted as follows : —

Whenever it shall appear to the officer in charge of any tank, river or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of labourers immediately working together to strengthen the embankment or other work, or when such a breach has occurred, if it shall appear to such officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of labourers for that purpose, it shall be lawful for such officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons of the labouring classes in such village or villages to co-operate in the work necessary for preventing or repairing the breach, as the case may be.

Labourers may, in certain cases, be called upon to assist in preventing or repairing breaches in embankments and anicuts.

In the absence of the said officer, it shall be lawful for the tahsildár of the taluq to make such requisition in his stead.

And if neither the said officer nor the tahsildár is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion, to call upon the labourers as aforesaid of his own village, and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon the

<sup>1</sup> The short title, "The Madras Compulsory Labour Act, 1858" was given by the Repealing and Amending Act, 1901 (XI of 1901).

Act I of 1858 was declared to be in force in the whole of the Madras Presidency, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4, printed, *General Acts*, Vol. II.

Under s. 3 (b) of the Scheduled Districts Act, 1874 (XIV of 1874), the Act has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see *Fort St. George Gazette*, 1898, Pt. I, p. 667, and *Gazette of India*, 1893, Pt. I, p. 872.



labourers of their villages, to co-operate in the work necessary for preventing or repairing the breach.

Punishment  
for refusing  
or neglecting  
to comply  
with such  
call.

2. Any male person of the labouring classes being duly called upon by the head of his village to labour as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse shall, on conviction before a Magistrate or an officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred rupees, or with simple imprisonment which may extend to one month, or with both.

Rate of re-  
muneration.

3. Every person who shall be employed on such work under such requisition shall be paid for his labour by day at the highest rate paid in the neighbourhood for similar work, and, if he is required to work at night, at double such rate.

Mode of  
payment.

4. Payment shall be made to the labourers from the public treasury ; and, if the labourers shall have been employed upon a work belonging to a private person, the amount advanced from the treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of land-revenue.

Recovery of  
advances  
from private  
persons.  
Villagers may  
be required  
to supply  
certain mate-  
rials.

5. It shall be lawful for heads of villages, on the requisition of the officer in charge of such works, as aforesaid, or in his absence on the requisition of the tahsildár, or, in case of emergency, when neither such officer nor the tahsildár is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit, trees and leaves, bamboos, straw and the like, necessary for stopping breaches in the embankments of tanks, rivers and canals, and to seize and, if necessary, to cut down such articles wherever they may be found, giving receipts for them in writing, such supplies shall be paid for from the public treasury at the highest prices for which such articles are sold in the neighbourhood ;

Payment for  
supplies.

Compensa-  
tion for  
damage.

and in case damage is sustained by any person in consequence of the cutting down of any such articles, compensation shall be made for such damage, the amount of which compensation shall, in case of dispute, be determined in the same manner as amounts payable under section 6. When the work for which such articles are used belongs to a private person, the amount advanced from the treasury shall be recoverable from him by the same means by which arrears of land-revenue are recoverable.<sup>1</sup>

Recovery of  
advances  
from private  
persons.

Liability  
of person  
refusing to  
contribute  
labour to  
work usually  
executed by  
village-com-  
munity.

6. Whenever by local custom any work for the purpose of irrigation or drainage, or connected therewith, is usually executed by the joint labour of a village-community, any person bound by such custom to contribute labour to such work, who neglects or refuses without reasonable cause to comply with a requisition for such customary aid made to him by the head of the village under the orders of the tahsildár or other superior Revenue-officer, shall be liable to pay a sum equal to twice the value of the labour which he is bound to contribute.

<sup>1</sup> See Mad. Act II of 1864, ss. 5 and 6, *infra*.

The amount so payable shall, in case of dispute, be determined summarily by a Village \* \*<sup>1</sup> Pancháyat assembled by order of the Collector through the Village \* \*<sup>1</sup> Munsif according to the rules for assembling such Pancháyats prescribed in Regulations V and VII of 1816.<sup>2</sup> Mode of determining amount payable.

Such amount shall be payable on demand ; and, on non-payment, the same may be recovered by the same means by which arrears of land-revenue are recoverable. Recovery.

All sums paid or recovered under this section shall be applicable to the expenses of any works for the purpose of irrigation or drainage executed for the benefit of the village-communities to which the defaulters respectively belong. Appropriation.

ACT No. XX OF 1859.<sup>3</sup>

[ THE MOPLAH OUTRAGES ACT, 1859.]

[31st August, 1859.]

An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George.

WHEREAS in the district of Malabar in the Presidency of Fort St. George murderous outrages have been frequently committed by persons of the class called Máppillas,<sup>4</sup> the offenders in such outrages intending therein to sacrifice their own lives ; and the general law of the country is not adequate to suppress such outrages ; It is enacted as follows :— Preamble.

1. [*Repeal of Acts XXIII of 1854 and V of 1856.*] *Rep. by the Repealing Act, 1870 (XIV of 1870).*

2. It shall be lawful for the Governor in Council of Fort St. George, whenever he shall see fit, by a proclamation published in the Fort St. George Gazette from time to time to declare the whole or any part or parts of the district of Malabar to be subject to the operation of all or any of the following provisions. Power to declare whole or part of Malabar under Act.

3. Any Máppilla who murders or attempts to murder any person, or who takes part in any outrage directed by Máppillas against any persons wherein murder is committed or is attempted to be committed, or is likely to be committed, and any person who shall procure or promote the commission of any such crime as aforesaid, or shall incite or encourage any other person or persons to commit the same, or who, after having committed, or having been accessory to, any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him, or who shall join or assist Forfeiture of property of Máppillas convicted of outrages ;

<sup>1</sup> The words " or District " were repealed by the Repealing Act, 1874 (XVI of 1874).

<sup>2</sup> Mad. Reg. V of 1816 is printed *supra*. So much of this section as relates to Mad. Reg. VII of 1816 has been repealed by Act XVI of 1874.

<sup>3</sup> The short title, "The Moplah Outrages Act, 1859" was given by the Repealing and Amending Act, 1901 (XI of 1901).

Act XX of 1859 is continued in force by the Moplah Outrages Act Continuance Act, 1869 (Mad. Act VII of 1869), *infra*.

<sup>4</sup> " Máppilla, lit. the son (*pilla*) of his mother (*má*), as sprung from the intercourse of foreign colonists, who were persons unknown, with Malabar women."—WILSON.

or incite or encourage other persons to join or assist, in such resistance, shall, on conviction thereof, be liable not only to the punishment provided by law for the offence of which he may be convicted, but also to the forfeiture of all his property, of whatever kind, to Government, by the sentence of the Court by which he is tried ;

of persons  
killed in  
committing  
outrages ;

and whenever any person shall be killed in the act of committing any such offence as aforesaid, or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Court, which would have had cognizance of the offence if the offender could have been brought to trial, to proceed, on the application of the Magistrate, to hold an inquest into the circumstances of the death of the offender ; and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government.

of immove-  
able property  
of offender.

4. All immoveable property of the offender which shall be alienated after the passing of this Act and before the commission of any offence specified in section 3 shall be forfeited in the same manner as if no such alienation had been made, unless the same shall have been made more than twelve months before the commission of the offence.

Disposal of  
bodies of  
offending  
Máppillas.

5. If any Máppilla shall be sentenced to death for any capital offence, punishable also with forfeiture of property under this Act, it shall be lawful for the Court, by which such offender is convicted, by its sentence to direct the body of such offender to be burned or buried within the precincts of the jail, as it shall see fit, and, in like manner, if any Máppilla shall be killed in the act of committing any such offence as aforesaid, or, having committed any such offence as aforesaid, shall be killed in resisting a lawful attempt to apprehend him, it shall be lawful for the Magistrate to cause the body of the person so killed to be burned or buried within the precincts of the jail, as the said Magistrate shall see fit.

Powers of  
Governor in  
Council as to  
confinement  
or trial.

6. The Governor in Council shall have, with respect to the confinement or trial of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in him by any law regarding the confinement or trial of persons charged with or suspected of State offences ; and the provisions of any such law shall be applicable to all cases in which the Governor in Council shall proceed under the authority of this section.

Procedure of  
Magistrate  
in respect to  
suspected  
persons.

7. The Magistrate of the District may cause any Máppilla or other person against whom there are, in his judgment, grounds of proceeding under the last section, to be apprehended, and, after such inquiry as he may think necessary, may detain such Máppilla or other person in safe custody until he shall have received the orders of the Governor in Council, to whom in all such cases he shall report his proceedings without unnecessary delay.

Penalty for  
remaining  
or returning

8. If, with the previous consent of the Governor in Council, any person against whom the Governor in Council shall think fit to proceed under section

6 shall undertake, in consideration of the suspension of such proceedings, to depart within a specified period from within the limits of the Continent of India or of any part thereof, and shall in breach of his said undertaking, and without the permission of the Governor in Council, remain or return within such limits, he shall be liable to be punished with imprisonment with or without hard labour for a period which may extend to seven years, or with fine, or both.

9. Whenever any such outrage as is specified in section 3 of this Act, the same being punishable under this Act, shall, after such proclamation as aforesaid, have been committed by any Máppilla or Máppillas, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy such sum of money as the Governor in Council shall authorize from all the Máppillas within the amsham<sup>1</sup> or the several amshams to which the perpetrator or perpetrators or any one of such perpetrators of such outrages shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage, and also within the amsham in which the outrage shall have been committed; and the said Magistrate shall assess the proportions in which the said sum shall be payable upon the several heads of families of Mappillas within such amsham or amshams, according to his judgment of their respective means; and the said Magistrate shall appropriate the sum so levied as follows, that is to say, in the first place, to the compensation of the parties aggrieved by such outrages, including therein compensation to the family of any person dying by any such outrage for the pecuniary loss occasioned or likely to be occasioned by such death; and, subject to such compensation, to the use of the Government.

10. Whenever any such outrage as is specified in section 3 of this Act, the same being punishable under this Act, shall have been committed by any Máppilla or Máppillas, it shall be lawful for the Magistrate to call upon the Máppilla inhabitants of the amsham or amshams to which the perpetrator or perpetrators or any one of such perpetrators of such outrage shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage, or wherein any such perpetrator shall, after the perpetration of any such outrage, be found, to deliver up such perpetrator or perpetrators, and, on the failure of such Máppilla inhabitants to comply with such call so made upon them by the Magistrate, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy from such Máppilla inhabitants such sum of money as the Governor in Council shall authorize as prescribed in the last preceding section of this Act, and all sums so levied shall be appropriated in the manner prescribed in that section.

11. All fines and pecuniary liabilities incurred under this Act may be levied by a Magistrate under summary process, in the same manner as the public revenue may be realized by a Collector; and no action shall lie in any

<sup>1</sup> Skr. *am̐ṣa*, part, share

within forbidden limits.

Levy of compensation or fine.

Penalty on Máppilla inhabitants of amsham refusing to deliver up.

Fines etc. how levied

Power to  
withdraw  
parts of  
Malabar  
from Act.

Civil Court against the Magistrate in respect of any fine imposed or any assessment made under this Act, or in respect of the levy of any portion of such fine from the person or persons upon whom the same shall have been assessed.

12. It shall be lawful for the Governor in Council, by such proclamation as aforesaid, from time to time to withdraw from the operation of the provisions of this Act any part or parts of the said district which he may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of such provisions, or of any of them.

13. [Duration of Act.] *Rep. by the Moplah Outrages Continuance Act, 1869 (Mad. Act VII of 1869).*

### ACT No. XXIV of 1859.<sup>1</sup>

[THE MADRAS DISTRICT POLICE ACT, 1859.]

[6th September, 1859.]

An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.

Preamble.

WHEREAS it is expedient to make the Police-force throughout the Madras Presidency a more efficient instrument at the disposal of the Magistrate for the prevention and detection of crime, and to re-organize the Police-force  
\* \* \* \*2 It is enacted as follows :—

Interpreta-  
tion.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say),

"Magis-  
trate."

the word "Magistrate" shall include all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate :

<sup>1</sup> The short title, "The Madras District Police Act, 1859" was given by the Repealing and Amending Act, 1901 (XI of 1901).

Act XXIV of 1859 was declared to be in force in the whole of the Madras Presidency, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4, printed, General Acts, Vol. II. As to employment in the city of Madras of Police-officers appointed under Act XXIV of 1859, see the Madras City Police Act, 1888 (III of 1888), s. 16, printed *infra*. The Madras Police Act, 1865 (Mad. Act VIII of 1865), and ss. 3 and 4 of the Town Nuisances Act, 1889 (III of 1889), are to be read with, and taken as part of, this Act.

It has been extended, under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluqs of Bhadrachalam and Rakapilli—see Fort St. George Gazette, 1879, Pt. I, p. 722, and Gazette of India, 1879, Pt. I, p. 630.

It has been declared under s. 3 (a) of the same Act, to be in force in the Scheduled Districts in Canjam and Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 666, and Gazette of India, 1898, Pt. I, p. 860.

As to power of Governor General in Council to create a General Police District (notwithstanding anything in this Act) and to direct the enrolment of a Police-force therein, see the Police Act, 1888 (III of 1888), printed, General Acts, Vol. IV.

<sup>2</sup> The words "and improve the condition of the village-police" were repealed by the Madras Hereditary Village-offices Act, 1895 (Mad. Act III of 1895), printed *infra*, except as to Scheduled Districts.

the word "subordinate" as applied to Police-functionaries, shall mean "Subordinate." District Superintendents and their Assistants <sup>1</sup>[and Deputies] :

<sup>2</sup>[the word "Police" shall include all persons appointed under this Act] : "Police."

the expression "General Police District" shall embrace all districts to which the operation of this Act shall be extended : "General Police District."

the word "property" shall include any chattel, money or valuable security : "Property."

3\* \* \* \* \*

the word "person" shall include company or corporation : "Person."

the word "month" shall mean calendar month : "Month."

the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine. "Cattle."

2. [Repeal and amendment of certain Acts.] Rep. by the Repealing Act, 1870 (XIV of 1870).

3. [Jurisdiction of officers appointed under Mad. Reg. XI of 1816.] Rep. by the Repealing Act, 1870 (XIV of 1870).

4. The superintendence of the Police throughout the General Police District shall vest in, and be exercised by, the Governor in Council, and, except as authorized by him under the provisions of this Act, no person, officer or Court shall be empowered to appoint, supersede or control any police-functionary, any Regulation, Act or usage to the contrary notwithstanding. Superintendent-ence vested in Governor in Council.

5. The administration of the Police throughout the General Police District shall be vested in an officer to be styled the Inspector General of Police for the Presidency of Madras, and in such subordinates as to the Governor in Council shall seem fit, who shall from time to time be appointed by the Governor in Council, and may be removed by the same authority, \* \* \* \* \*. Inspector General of Police, etc.

6. All powers not inconsistent with the provisions of this Act which up to the passing of this Act belonged by law to the existing Police-authorities shall be vested in the Police-authorities appointed under this Act : Provided always that no Police-functionary so appointed shall possess or exercise any judicial or revenue authority. Powers of Police, etc.

7. The Inspector General of Police shall be appointed a Justice of the Peace ; he shall also have the full powers of a Magistrate throughout the General Police District, but shall exercise these powers subject to such orders as may from time to time be issued by the Governor in Council. The Governor in Council may vest any District Superintendent of Police with all or any of the powers of a Magistrate within such limits as he may deem proper ; but such Superintendent shall exercise the powers with which he shall be so appointed. Inspector General to be Justice of the Peace. His powers. District Superintendent may be Magistrate. His powers.

<sup>1</sup> The words in square brackets were inserted by the Madras District Police and Towns Nuisances Act Amendment Act, 1909 (Mad. Act III of 1909), s. 2, *infra*.

<sup>2</sup> This definition of Police was substituted for the former definition by the Madras Hereditary Village-offices Act, 1895 (Mad. Act III of 1895).

<sup>3</sup> The definition of Number and Gender was repealed by the Second Repealing and Amending Act, 1914 (XVII of 1914), s. 3 and 2nd Sch.

<sup>4</sup> The words "and who shall receive such salary as the Governor General of India in Council shall allow" were repealed by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate, and as far as may be necessary for the performance of the duties assigned to him by this Act.

Constitution  
of force.

8. The entire Police-establishment of the Madras Presidency shall for the purposes of this Act be deemed to be one Police-force and shall be formally enrolled, and shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the Governor in Council<sup>1</sup> [subject to the control] of the Governor General of India in Council.

Inspector  
General to  
control force  
and make  
rules.

9. The Inspector General may from time to time, subject to the approval of the Governor in Council, frame such orders and regulations<sup>2</sup> as he shall deem expedient, relative to the general government and distribution of the force, the places of residence, the classification, rank and particular service of the members thereof; their inspection; the description of arms, accoutrements and other necessities to be furnished to them; to the collecting and communicating intelligence and information; and all such other orders and regulations relative to the said Police-force as the said Inspector General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such force efficient in the discharge of all its duties.

Appoint-  
ment and  
dismissal of  
Police-  
officers.

10. The appointment of all Police-officers shall, under such rules as the Governor in Council shall from time to time sanction, rest with the Inspector General of Police<sup>3</sup> [Deputy Inspectors General] and the<sup>3</sup> [District] Superintendents, who may under such rules as aforesaid at any time dismiss, suspend or fine, to any amount not exceeding one month's pay, any Police-officer whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Police-officers  
to receive  
certificates  
of office.

11. Every person so appointed shall receive on his enrolment a certificate (A) under the seal of the Inspector General, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police-force, and shall thereupon be immediately surrendered to his superior officer, or other person empowered to receive it.

12. [*Police Superannuation Fund.*] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

Additional  
Police-officers  
employed

13. It shall be lawful for the Inspector General of Police, or any District Superintendent, if they shall think fit, on the application of any person show-

<sup>1</sup> These words were substituted for the words "with the sanction" by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

<sup>2</sup> For notification sanctioning such order—see those noted on pp. 308 and 309 of the *Madras Local Rules and Orders*, Ed. 1912.

<sup>3</sup> These words were inserted and substituted respectively by the *Madras District Police and Towns Nuisances Act Amendment Act, 1909* (Mad. Act III of 1909), s. 3, *infra*.

ing the necessity thereof, to depute any additional number of Police-officers <sup>at cost of individuals.</sup> to keep the peace at any place within the General Police District, at the charge of the person making the application, but subject to the orders of the said Inspector General or District Superintendent and for such time as they shall think fit ; provided always that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector General or District Superintendent, to require that the officers so appointed shall be discontinued : such person shall be relieved from the charge of such additional force from the expiration of such notice.

**14.** Whenever any railway, canal or other public work shall be carried on, or be in operation, in any part of the country, and it shall appear to the Inspector General that the appointment of an additional Police-force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, it shall be lawful for the Inspector General, with the consent of the Governor in Council, to direct the employment of such additional force, and to maintain the same so long as such necessity shall continue ; and to make orders from time to time upon the treasurer or other officer having the control or custody of the funds of any Company carrying on such works, for the payment of the extra force so rendered necessary as aforesaid. <sup>Additional force in neighbourhood of railway and other works.</sup>

**15.** All moneys paid in respect of such additional force as is mentioned in the two last preceding sections shall be paid into a fund to be called " The General Police Fund," and shall be applied to the maintenance of the Police-force under such orders as the Governor in Council may pass ; and all sums of money payable under those sections shall be recoverable by suit in any competent Court, or by distress and sale of the goods of the defaulter under the warrant of a Magistrate. <sup>Payment for support of additional Police-force.</sup>

**16.** When it shall appear that any tumult, riot or outrage has taken place or may be reasonably apprehended in any place, and that the ordinary officers appointed for preserving the peace are not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in such place, it shall be lawful for any Police-officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or village servants, or residents of the neighbourhood, as such Police-officer may require to act as special Police-officers for such time and in such manner as he shall deem necessary ; and it shall be the duty of such Magistrate at once to comply with such applications. <sup>Special Police-officers.</sup>

**17.** Every special police-officer so appointed shall have the same powers, privileges and protection, and be liable to all such duties and penalties, and be subordinate to the same authorities, as the ordinary officers of Police. <sup>Powers of special Police-officers.</sup>

**18.** If any person, being appointed a special Police-officer as aforesaid, shall without sufficient excuse neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his <sup>Punishment for refusal to serve.</sup>



duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding fifty rupees for such neglect, refusal or disobedience.

Police-officers  
not to resign  
without  
leave or  
notice ;

nor to take  
other employ-  
ment.

Unlawful  
assumption  
of Police-  
functions,  
personation  
of Police,  
etc.

**19.** No Police-officer shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the District Superintendent ; or unless he shall have given to his superior officer two months' notice in writing of his intention to do so. Nor shall any such Police-officer engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing under the seal of the Inspector General.

**20.** From and after the passing of this Act, every person not being, or having ceased to be, a duly enrolled Police-officer, who shall unlawfully assume any function or power belonging to the Police, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments, and other necessities which may have been supplied to him for the execution of his duty, or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the Police-force, without being able to account satisfactorily for his possession thereof, or who shall put on the dress of any Police-officer, or any dress designed to represent it, or to be taken for it, or who shall otherwise personate the character or act the part of any Police-officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable on conviction before a Magistrate to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or both.

Duties of  
Police-  
officers.

**21.** Every Police-officer shall, for all purposes in this Act contained, be considered to be always on duty and shall have the powers of a Police-officer in every part of the General Police District. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences and public nuisances ; to preserve the peace ; to apprehend disorderly and suspicious characters ; to detect and bring offenders to justice ; to collect and communicate intelligence affecting the public peace ; and promptly to obey and execute all orders and warrants lawfully issued to him.

**22 to 43.** [*Offences for which Police-officers may arrest without warrant : procedure on arrest : rules regarding bail and recognizances : remands : power to enter drinking-shops, etc. : inspection of weights and measures : prohibition to receive complaints of petty offences : powers to inform and prosecute provisions regarding execution of warrants and service of summonses : Police-officers not to use threats or promises : obligation to render assistance to Police-officers.*] *Rep. by Act XVII of 1862.*

Penalties for  
neglect of  
duty, etc.

**44.** Every Police-officer who shall be guilty of any violation of duty or wilful breach of any lawful orders and regulations not punishable under section 10 of this Act, or who shall cease to perform the duties of his office without leave, or without having given two months' notice as provided by this enactment, or engage without authority in any employment other than his Police

duty, or who shall maliciously and without probable cause prefer any false, vexatious or frivolous charge or information against any individual, or who shall knowingly and wilfully and with evil intent exceed his powers, or shall be guilty of any wilful and culpable neglect of duty, in not bringing any person who shall be in his custody without a warrant before a Magistrate as hereinbefore provided, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour not exceeding three months, or both.

45. Any Police-officer who shall on any pretext, or under any circumstances, directly or indirectly collect or receive any fee, gratuity, diet-money, allowance or recompense, other than he may be duly authorized by the Inspector General or other officer acting under his order to collect or receive shall, on conviction before a Magistrate, be liable to a penalty not exceeding six months' pay, or to imprisonment, with or without hard labour, not exceeding six months, or both.

Penalty for receiving unauthorized fees, etc.

46. Any Police-officer who shall directly or indirectly extort, exact, seek or obtain any bribe or unauthorized reward or consideration, by any illegal threat or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate, or who shall attempt to commit any of the offences abovesaid, or shall be guilty of cowardice, shall be liable, upon conviction before a Magistrate, to a fine not exceeding twelve months' pay, or to imprisonment with or without hard labour not exceeding twelve months, or both: Provided always that nothing in the three last preceding sections shall be deemed to preclude the Magistrate from committing for trial any cases of this nature too serious for his cognizance.

Penalty for extortion, etc.

Committal by Magistrate of serious cases.

47. If any person shall assault or resist any Police-officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable cause prefer any false or frivolous charge against any Police-officer, such person shall, on conviction of such offence before any Magistrate be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, not exceeding three months, or both.

Penalty for offences against Police-officer.

48. [*Penalty for certain offences within limits of towns. Power to arrest without warrant. Slaughtering cattle, furious riding, etc.*] Rep. by the Town Nuisances Act, 1889 (*Mad. Act III of 1889*).

49. [*Regulation of public processions, etc., and of carriages and persons at places of public resort. Regulation of use of music in streets.*] Rep. by *Mad. Act V of 1896*.

50. In all cases of convictions under this Act, the Magistrate trying the case shall be restrained within the limits of his ordinary jurisdiction as to the amount of fine or imprisonment he may inflict: Provided always that such

Jurisdiction. Proviso as to charges against

Police-officers and village-watchers. Liability to prosecution for higher penalties.

charges against Police-officers above the rank of a private shall only be adjudicated on by European functionaries, and that village-watchers alone shall be liable to conviction by heads of villages.

Proviso.

**51.** Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act, or to prevent any person from being liable under any other law, Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act: Provided always that no person shall be punished twice for the same offence.

Levy of fines.

**52.** <sup>1</sup>All fines and penalties imposed, and all sums of money recoverable under the authority of this Act, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate \* \* \* <sup>2</sup>

Limitation of action.

**53.** All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done, under the provisions of this Act, or under the general Police-powers hereby given, shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the Superintendent or other superior officer of the district in which the act was committed, one month at least before the commencement of the action; and no plaintiff shall recover

Notice.

in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action, brought by or on behalf of the defendant; and, though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have cost against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action:

Recovery by plaintiff.

Costs.

Bar to action.

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

Plea that act was done under warrant.

**54.** When any action, prosecution or proceeding shall be brought against any Police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate. And the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. And no proof of the signature of such official shall be necessary, unless the Court shall see reason to doubt its being genuine:

Decree for defendant. Proof of signature.

Saving of remedy against issuer of warrant.

Provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire.

<sup>1</sup> See the Madras Police Act, 1865 (Mad. Act V of 1865), s. 1, *infra*.

<sup>2</sup> The words "in manner provided by Act 11 of 1839" were repealed by the Repealing Act, 1874 (XVI of 1874).

**55.** This Act shall take effect in any and every such district as the Governor in Council shall appoint by notification published in the official gazette.<sup>1</sup> *Operation of Act.*

## SCHEDULE.

[LAWS REPEALED AND AMENDED.]

*Rep. by the Repealing Act, 1870 (XIV of 1870).*

## FORM A.

*(See section II.)*

*A. B.* has been appointed a member of the Police-force under Act XXIV of 1859, and is vested with the powers, functions and privileges of a Police-officer.

# THE MADRAS CIVIL COURTS ACT, 1873.

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ACT No. III of 1873.<sup>1</sup>

[THE MADRAS CIVIL COURTS ACT, 1873.]

[21st January, 1873.]

An Act to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court.

WHEREAS it is expedient to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court; It is hereby enacted as follows:—

PART I.—PRELIMINARY.

1. This Act may be called the Madras Civil Courts Act, 1873.

Short title.

It extends to all the territories for the time being under the government of the Governor of Fort St. George in Council except the tracts respectively under the jurisdiction of the Agents for Ganjam and Vizagapatam; and it shall come into force on the first day of March 1873.

Local extent.

2. [*Repeal of certain enactments.*] *Rep. by the Repealing Act, 1873 (XII of 1873).*

Commencement.

PART II.—ESTABLISHMENT AND CONSTITUTION OF CIVIL COURTS.

3. The number of District (heretofore designated Zila) Courts to be established or continued under this Act shall be fixed, and may from time to time be altered, by the Local Government:<sup>2</sup>

Number of District Courts.

3 \* \* \* \* \*

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1873, Pt. V, p. 173; for Report of the Select Committee, see *ib.*, 1872, Pt. V, p. 695; for Proceedings in Council relating to the Bill, see *ib.*, Supplement, 1870, p. 900, and 1873, pp. 3, 16 and 153.

<sup>2</sup> For notification directing that the names of district and sessions divisions (zilas) shall in future correspond with those of the collectorates and revenue-districts in which they are included, see Fort St. George Gazette, 1873, p. 689. See also note to s. 10, *infra*.

<sup>3</sup> The words "Provided that no increase to the number of such Courts shall be made by such Government without the previous sanction of the Governor General in Council" were repealed by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

Number of  
Subordinate  
Judges and  
District  
Munsifs.

4. The number of Subordinate Judges and District Munsifs to be appointed under this Act for each district shall be fixed, and may from time to time be altered, by the Local Government :<sup>1</sup>

2 \* \* \* \* \*

Court's  
locality.

5. The place at which any Court under this Act shall be held may be fixed, and may, from time to time, be altered <sup>2</sup> —

in the case of a District Court or a Subordinate Judge's Court—by the Local Government :

in the case of a District Munsif's Court—by the High Court.

[The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court.]

Appointment  
to vacancy  
in office of  
District  
Judge or  
Subordinate  
Judge.

6. Whenever the office of the Judge of a District Court (hereinafter called a " District Judge ") or of a Subordinate Judge under this Act is vacant,

5 \* \* \* \* \*

the Local Government shall appoint to the office such duly qualified person as it thinks proper.

Appoint-  
ment to  
vacancy in  
office of Dis-  
trict Munsif.

7. Whenever the office of a District Munsif under this Act is vacant,

6 \* \* \* \* \*

the High Court shall appoint to the office such person as it thinks fit :

Provided that he possesses the qualifications for the time being required by the rules in this behalf which the High Court, with the previous sanction of the Local Government, are hereby empowered to make and alter.

Publication  
of appoint-  
ments.  
Annulment  
of appoint-  
ments.

Every appointment made under this section shall be published in the same manner as appointments made by the Local Government.

The Local Government may, for good and sufficient reason, annul any appointment made under this section.

District  
Courts, Sub-  
ordinate  
Judges and  
District  
Munsifs.

8. The present Zila Courts, Principal Sadr Amins and District Munsifs shall be respectively the first " District Courts," " Subordinate Judges " and " District Munsifs " under this Act.

<sup>1</sup> For notification reducing the number of District Munsifs' Courts in the Madura District, see Fort St. George Gazette, 1888, Pt. I. p. 15. See also note under s. 10.

<sup>2</sup> The words " Provided that no addition to the number of such officers shall be made by such Government without the previous sanction of the Governor General in Council " were repealed by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

<sup>3</sup> For notifications transferring and changing the names of certain District Munsifs' Courts, see those noted on p. 314 of the Madras Local Rules and Orders, Ed. 1912. See also under s. 10.

<sup>4</sup> The words in square brackets were added by the Madras Civil Courts Act, 1885 (XXI of 1885), s. 2, printed *infra*.

<sup>5</sup> The words " or whenever the Governor General in Council has sanctioned an addition to the number of District Judges or Subordinate Judges under the provisions of section 3 or section 4," were omitted by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

<sup>6</sup> The words " or whenever the Governor General in Council has sanctioned an addition to the number of District Munsifs under the provisions of section 4," were omitted by *ibid*.

9. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.<sup>1</sup>

Seal of Court.

### PART III.—JURISDICTION.

10. The Local Government shall fix,<sup>2</sup> and may from time to time vary, the local limits of the jurisdiction of any District Judge or Subordinate Judge under this Act :

Local limits of jurisdiction of District Court or Subordinate Judge.

Provided that, where more than one Subordinate Judge is appointed to any district, the District Judge may assign to each such Subordinate Judge the local limits of his particular jurisdiction within such district.

Local limits of jurisdiction of each of several Subordinate Judges.

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to have been fixed under this Act.

11. The High Court shall fix, and may from time to time modify, the local jurisdiction of District Munsifs.<sup>3</sup>

Local jurisdiction of District Munsifs.

[If the High Court assigns the same local jurisdiction to two or more District Munsifs, it shall declare which of them shall be deemed the Principal District Munsif, and the other or others shall be called Additional District Munsifs, and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the District Judge.]

12. The jurisdiction of a District Judge or a Subordinate Judge extends, subject to the rules contained in the Code of Civil Procedure,<sup>5</sup> to all original suits and proceedings of a civil nature.

Jurisdiction of District Judge or Subordinate Judge in original suits.

<sup>1</sup> For notification prescribing dimensions and form of seals to be used by District Judges, Subordinate Judges and District Munsifs, see Madras List of Local Rules and Orders, Ed. 1912, p. 315.

<sup>2</sup> For notification issued under s. 10 in conjunction with s. 3, abolishing existing Civil and Criminal Courts, and establishing new Zila and Subordinate Courts, see Fort St. George Gazette 1843, Suppt., p. 617, and for that abolishing the District and Sessions Court, North Tanjore, and decreeing that there shall be one such Court for the entire District, see *ibid*, 1884, Pt. 1, p. 403.

For notification issued under s. 10 in conjunction with s. 4 withdrawing civil judicial powers, see Fort St. George Gazette, 1891, Pt. 1, pp. 826 and 1009.

For notification issued under s. 10 in conjunction with s. 4 changing the name of the Court of the Subordinate Judge of Tadpetri and fixing the limits of his jurisdiction, see Fort St. George Gazette, 1890, Pt. 1, p. 287.

For notifications altering the local limits of the jurisdiction of such Judges, see those noted on p. 315 of the Madras Local Rules and Orders, Ed. 1912.

<sup>3</sup> For such notifications issued under s. 11 in conjunction with s. 5, see those noted on p. 316 of the Madras Local Rules and Orders, Ed. 1912, and for those issued under s. 11 alone, see *ibid*, pp. 317 and 318.

<sup>4</sup> This para. in square brackets was added by the Madras Civil Courts Act, 1885 (XXI of 1885), s. 3, printed *infra*.

<sup>5</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), printed, General Acts, Vol. VI.



Jurisdiction  
of District  
Munsifs.

The jurisdiction of a District Munsif extends to all like suits and proceedings, not otherwise exempted from his cognizance, of which the amount or value of the subject-matter does not exceed two thousand five hundred rupees.

Appeals from  
decrees of  
District  
Courts.

**13.** Regular or special appeals \* \* \* \*<sup>1</sup> shall, when such appeals are allowed by law, lie from the decrees and orders of a District Court to the High Court.

Appellate  
jurisdiction  
of District  
Court.

Appeals from the decrees and orders of Subordinate Judges and District Munsifs shall, when such appeals are allowed by law, lie to the District Court, except when the amount or value of the subject-matter of the suit exceeds rupees five thousand, in which case the appeal shall lie to the High Court :

Appellate  
jurisdiction  
of Subordi-  
nate Judge.

Provided that, whenever a Subordinate Judge's Court is established in any district at a place remote from the station of the District Court, the High Court may, with the previous sanction of the Local Government, direct<sup>2</sup> that appeals from the decrees or orders of District Munsifs within the local limits of the jurisdiction of such Subordinate Judge be preferred in the Court of the latter :

Disposal of  
appeal by  
District  
Judge.

Provided also that the District Judge may remove to his own Court, from time to time, appeals so preferred, and dispose of them himself, or may, subject to the orders of the High Court, refer any appeals from the decrees and orders of District Munsifs, preferred in the District Court, to any Subordinate Judge within the district.

Valuation of  
suits for  
immoveable  
property.

**14.**<sup>3</sup> When the subject-matter of any suit or proceeding is land, a house or a garden, its value shall, for the purposes of the jurisdiction conferred by this Act, be fixed in manner provided by the Court-fees Act, 1870,<sup>4</sup> section VII of 1870. 7, clause 5.

Power to  
require wit-  
ness or party  
to make oath  
or affir-  
mation.  
Law ad-  
ministered  
by Courts to  
Natives.

**15.** Every Court under this Act may require a witness or party to any suit or other proceeding pending in such Court to make such oath or affirmation as is prescribed by the law for the time being in force.

**16.** Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

- (a) the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, or,
- (b) any custom (if such there be) having the force of law and governing the parties or property concerned,

<sup>1</sup> The words and figures "or appeals under Madras Regulation XI of 1832, section 9," were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

<sup>2</sup> For such notifications, see Fort St. George Gazette, 1875, p. 729, and *ibid*, 1894, Pt. II, p. 1014.

<sup>3</sup> This section is repealed in local areas to which rules under s. 3 of the Suits Valuation Act, 1887 (VII of 1887), apply, see s. 6 of that Act. For Act VII of 1887, see General Acts, Vol. IV.

<sup>4</sup> Printed, General Acts, Vol. II.

shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished.

(c) In cases where no specific rule exists, the Court shall act according to justice, equity and good conscience.

**17.** No District Judge, Subordinate Judge or District Munsif shall try any suit to or in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

Judges not to try suits in which they are interested; nor appeals from decrees passed in other capacities.

No District Judge or Subordinate Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such officer, he shall report the circumstances to the Court to which he is immediately subordinate.

Mode of disposing of such suits and appeals.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section 6.<sup>1</sup>

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

#### PART IV.—MISCONDUCT OF JUDGES.

**18.** Any District Judge, Subordinate Judge or District Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Judge by Local Government.

**19.** The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge pending the orders of the Local Government.

Suspension of Subordinate Judge by High Court.

The High Court shall immediately report the circumstances of such suspension.

and the Local Government shall make such order thereon as it thinks fit.

**20.** The High Court may suspend any District Munsif who is alleged to have misconducted himself, or may appoint a commission for inquiring into his alleged misconduct.

Suspension of District Munsif by High Court. Commission of inquiry.

The provisions of Act No. XXXVII of 1850<sup>2</sup> (*for regulating inquiries into the behaviour of public servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

Exercise by High Court of powers conferred on Government by Act XXXVII of 1850.

On receiving the report of the result of any such inquiry, the High Court may, if it think fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

<sup>1</sup> See now s. 24 of the Code of Civil Procedure, 1908 (Act V of 1908). Printed, General Acts, Vol. VI.

<sup>2</sup> Short title, "The Public Servants (Inquiries) Act, 1850." Printed, General Acts, Vol. I. The Act has since been amended by the Public Servants (Inquiries) Act (1850) Amendment Act, 1897 (I of 1897), printed *ib.*, Vol. IV.

Suspension of District Munsif by District Judge. Report to High Court.

**21.** The District Judge may suspend from office, whenever he sees urgent necessity for so doing, any District Munsif under his control.

Whenever a District Judge exercises the power conferred by this section, he shall forthwith send to the High Court a full report of the circumstances of the case, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

#### PART V.—MINISTERIAL OFFICERS.

Appointment etc., of ministerial officers of District Courts. Appointment and removal of ministerial officers of subordinate Courts.

**22.** The ministerial officers of the District Courts shall be appointed, and may be suspended or removed, by the Judges of such Courts, whose orders in such matters shall, [subject to the control of the High Court,] be final.

**23.** The ministerial officers of the Courts of the Subordinate Judges and District Munsifs shall be appointed by such Subordinate Judges and District Munsifs, respectively, subject to the approval or confirmation of the District Judge within whose jurisdiction such Courts are situate, and may, [subject to the control of the High Court,] be suspended or removed from office either by the said District Judge or (subject to his approval or confirmation) by such Subordinate Judges and District Munsifs, respectively.

**24.** Every appointment under this Part shall be made subject to such rules as the Local Government from time to time prescribes on this behalf.

Rules regulating such appointments. Duties of ministerial officers.

Every person appointed under this Part shall perform such duties as may from time to time be imposed upon him by the presiding officer of the Court to which he belongs.

Present ministerial officers. Transfer of ministerial officers.

The present ministerial officers of the Courts under this Act shall be deemed to have been appointed under this Part.

**24A.** (1) The High Court may transfer all or any of the ministerial officers of any Civil Court subject to its superintendence to any other such Court.

(2) The District Judge may transfer all or any of the ministerial officers of any Civil Court under his control to any other such Court.

#### PART VI.—MISCELLANEOUS.

Temporary discharge of duties of District Judge.

**25.** In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties,

<sup>1</sup> These words in square brackets were added by the Madras Civil Courts Act, 1885 (XXI of 1885), s. 4(a), printed *infra*.

<sup>2</sup> Section 23 was substituted for the original section by s. 2 of the Madras Civil Courts (Amendment) Act, 1877 (XIX of 1877), printed *infra*.

<sup>3</sup> This section was substituted for the original section 24A by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I

or of his absence from the station in which his Court is held,  
 the senior Subordinate Judge of the district shall, without interruption to his ordinary duties, assume charge of the District Judge's office, and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like,  
 and shall continue in charge of the office until the same is resumed or assumed by an officer duly appointed thereto.

26. The District Judge, on the occurrence within his district of any vacancy in the office of District Munsif, may, pending the orders of the High Court thereon, appoint such person as he thinks fit to act in such office; and he shall at once report to the High Court the occurrence of every such vacancy and such appointment.

District Judge may nominate to vacancy in office of District Munsif.

27. Subject to the other provisions of this Act and to the rules for the time being in force and prescribed by the High Court in this behalf, the general control over all the Civil Courts under this Act in any district is vested in the District Judge.

District Judge to control Civil Courts of District.

28. The [High Court] may, by notification<sup>2</sup> in the official Gazette, invest, within such local limits as it shall from time to time appoint, any [District or] Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of rupees five hundred,

Investiture of Subordinate Judge with Small Cause jurisdiction.

and any District Munsif with the same jurisdiction up to the amount of  
<sup>4</sup> [ \* \* \* \* \* rupees two hundred].

Investiture of District Munsif with similar jurisdiction.

and may, by like<sup>5</sup> notification, whenever it thinks fit, withdraw such jurisdiction from the [District or] Subordinate Judge or Munsif so invested.

29. [Amendment of Act XI of 1865, s. 51.] Rep. by the Provincial Small Cause Courts Act, 1887 (IX of 1887).

[Amendment of Mad. Act I of 1868.] Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

30. The High Court may permit the Civil Courts under its control to adjourn from time to time for periods not exceeding in the aggregate two months in each year.<sup>7</sup>

Vacation.

<sup>1</sup> The words "High Court" were substituted for the words "Local Government" by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

<sup>2</sup> For notifications issued under the powers conferred by this section, see those noted on p. 320 of the Madras Local Rules and Orders, Ed. 1912, and Fort St. George Gazette, 1895, Pt. I, p. 1454.

<sup>3</sup> The words in brackets in the second and fourth clauses of s. 28 were inserted by the Madras Civil Courts Act, 1885 (XXI of 1885), s. 5, printed *infra*.

<sup>4</sup> The words "rupees fifty or on the recommendation of the High Court up to any amount not exceeding" were repealed by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

<sup>5</sup> For instance of such a notification, see Fort St. George Gazette, 1902, Pt. I, p. 834.

<sup>6</sup> The words in brackets in the second and fourth clauses of s. 28 were inserted by the Madras Civil Courts Act, 1885 (XXI of 1885), s. 5, printed *infra*.

<sup>7</sup> For such orders, see those noted on p. 322 of the Madras Local Rules and Orders, Ed. 1912.

## SCHEDULE.

### ENACTMENTS REPEALED.

[Rep. by the Repealing Act, 1873 (XII of 1873).]

### ACT No. XIX OF 1877.<sup>1</sup>

[THE MADRAS CIVIL COURTS AMENDMENT ACT, 1877.]

[28th December, 1877.]

An Act to enable certain District Judges to suspend and remove certain ministerial officers, and for other purposes.

Preamble.

WHEREAS it is expedient to empower \* \* \* \* \*<sup>2</sup>  
the District Judges of the Presidency of Fort St. George to suspend and remove ministerial officers of the Courts of Subordinate Judges, Munsifs and District Munsifs; and whereas it is also expedient to provide in the Presidency of Fort St. George for the transfer of ministerial officers from one Court to another; It is hereby enacted as follows:—

1. [Amendment of Act VI of 1871.] Rep. by the Bengal, N.-W. P. and Assam Civil Courts Act, 1887 (XII of 1887), s. 2.

Amendment  
of Act III of  
1873, s. 23.

2. For section 23 of the Madras Civil Courts Act, 1873, the following III of 1873 shall be substituted (that is to say):—

[Vide supra p. 108.]

Addition  
after section  
24 of Act III  
of 1873.

3. After section 24 of the same Act the following section shall be inserted:—

[Vide supra p. 108.]

### ACT No. IX OF 1879.<sup>3</sup>

[THE BURMA COAST-LIGHTS ACT, 1879.]

[23rd May, 1879.]

An Act to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.

Preamble.

WHEREAS it is expedient to increase the coast-light dues paid under the provisions of Act No. XIII of 1867 (*An Act to provide for the establishment*

<sup>1</sup> Short title, "The Madras Civil Courts (Amendment) Act, 1877," was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, see Gazette of India, 1877, Pt. V, p. 320; for Proceedings in Council, see *ib.*, 1877, Supplement, pp. 22, 76, and 272.

<sup>2</sup> The words "the District Judges of the Lower and the North-Western Provinces of the Presidency of Fort William and" were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

<sup>3</sup> For Statement of Objects and Reasons, see Gazette of India, 1879, Pt. V, p. 42; for Proceedings in Council, see *ib.*, Supplement, pp. 17, 48 and 528.

and maintenance of Coast-lights in the eastern part of the Bay of Bengal), and to render chargeable with coast-light dues certain vessels which are not now so chargeable; It is hereby enacted as follows:—

*Preliminary.*

1. This Act may be called the Burma Coast-lights Act, 1879.

Short title.  
Commence-  
ment.  
Local extent.

It shall come into force on the first day of July, 1879;

and it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the <sup>1</sup> Lieutenant-Governor of Bengal and the Chief Commissioners <sup>2</sup> of British Burma <sup>3</sup> and the Andaman and Nicobar Islands.

But nothing herein contained shall apply to any vessel belonging to, or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

2. Act No. XIII of 1867 (*to provide for the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal*) is hereby repealed. Repeal.

But any appointment made under the said Act shall be deemed to have been made under this Act.

3. In this Act, unless there is something repugnant in the subject or context,— Interpretation-clause.

“Customs-Collector” means a Customs-Collector appointed under the Customs-Collector Act, 1878,<sup>4</sup> and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port: Customs-Col-  
lector:

“vessel” includes any thing made for the conveyance by water of human beings or of property: “vessel:”

“master,” when used in relation to any vessel, means any person (except a Pilot or Harbour-Master) having, for the time being, the charge or control of such vessel: “master:”

“voyage” means the whole distance between a vessel’s place of departure and her final place of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage. “voyage:”

*Coast-light Dues.*

4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called “coast-light dues,” shall be paid in respect of every vessel of the burden of fifty tons and upwards. Coast-light dues payable in respect of vessels of fifty tons.

<sup>1</sup> New Governor of Bengal in Council, see Proclamation, dated 22nd March, 1912, Gaz. of India, 1912, Pt. I, pp. 364–365.

<sup>2</sup> The Chief Commissioner is now the Lieutenant-Governor of Burma—see Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261.

<sup>3</sup> Read now “Lower Burma,” see the Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, Burma Code.

<sup>4</sup> Printed, General Acts, Vol. II.

upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden :

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India.

Dues when payable.

5. The said coast-light dues shall become due and payable—

- (a) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance ;
- (b) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port :

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage.

Power to vary rates of dues.

6. The Governor General in Council may from time to time, by notification in the Gazette of India, reduce or raise the rate of coast-light dues in respect of all vessels or any particular class of vessels :

Proviso.

Provided that such rate shall not in any case exceed that rate fixed by section 4.

Collection of dues.  
Voucher to be given.

7. The Customs-Collector shall collect the coast-light dues,

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

Master to report arrival.

8. Within twenty-four hours after the arrival within a port of any vessel chargeable with coast-light dues, the master of such vessel shall give notice of such arrival to the Customs-Collector.

Tonnage of vessel chargeable with coast-light dues how ascertained—  
if registered ;

9. In order to ascertain the tonnage of any vessel chargeable with coast-light dues, the following rules shall be observed :—

- (a) If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850,<sup>1</sup> or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs-Collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained ; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

- (b) If such vessel be not a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850,<sup>1</sup> or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement.

10. If the master of any vessel refuses or neglects to pay to the Customs-Collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid;

On refusal to pay dues or expenses, the Collector may distrain and sell.

and in case any part of such dues or expenses, or of the costs of the distress or arrest or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs-Collector may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand.

11. The officer of Government whose duty it is to grant a port clearance for any vessel shall not grant such port-clearance until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act.

No port-clearance to be granted until dues, etc., are paid.

12. The master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage, shall, upon the demand of the Customs-Collector, specify upon what voyage she is or has been bound.

Master to specify on demand voyage on which vessel is bound.

13. If the master of any vessel evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees.

Penalty for evading payment of dues, etc.

#### *Determination of Disputes under Act.*

14. If any dispute arises as to whether any vessel is chargeable with any coast-light dues, expenses or costs under this Act, or as to the amount of such

Magistrate to decide disputes.

<sup>1</sup> The Indian Registration of Ships Act, 1841 and the Indian Registration of Ships Act (1841) Amendment Act, 1850, printed, General Acts, Vol. I.



dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any Magistrate exercising at the place where the dispute arises powers under the Code of Criminal Procedure<sup>1</sup> not less than those of a Magistrate of the second class. All decisions under this section shall be final.

*Prosecutions under other Laws.*

Saving of prosecutions under other laws.

**15.** Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act: Provided that no person shall be punished twice for the same act or omission.

*Statement of Receipts and Expenditure.*

Statement of receipts and expenditure to be published.

**16.** The Governor General in Council shall, on or before the first day of October in each year, publish in the Gazette of India a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

**17.** [*Amendment of Indian Ports Act, 1875. Application of Moulmein and Bassein port-dues.*] *Rep. by the Indian Ports Act, 1889 (X of 1889).*

SCHEDULE.

(See section 4.)

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—

(a) from or to any port in British Burma; or

(b) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of British Burma.<sup>2</sup>

2. A voyage to or from any port in British Burma<sup>2</sup>—  
except voyages to or from Moulmein, from or to Mergui.

from or to any other port in British Burma;<sup>2</sup>

from or to Tavoy or Mergui, or to or from Tavoy.

3. A voyage to or from Rangoon and any port in British Burma<sup>2</sup> west of the longitude of Rangoon—

from or to any place east of the longitude of Mergui.

4. A voyage to or from any port in British Burma<sup>2</sup> other than Tavoy and Mergui—

from or to any port in the Andaman and Nicobar Islands.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1883), printed, General Acts, Vol. V.

<sup>2</sup> Read now "Lower Burma"—see s. 7 of the Burma Law Act, 1898 (XIII of 1898), printed Burma Code.

ACT No. XVI OF 1879.<sup>1</sup>

[ THE TRANSPORT OF SALT ACT, 1879.]

[ 30th September, 1879.]

## An Act to restrict the Transport of Salt by Sea.

WHEREAS it is expedient to restrict the transport of salt by sea in manner **Preamble.**  
hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Transport of Salt Act, 1879.

Short title.

It extends to the western coast of British India, north of Cochin, and to **Local extent.**  
the sea within a distance of a marine league from such coast; \* \* \*2

2. When any salt is carried by sea in any vessel other than a vessel of the **Penalties for**  
burden of three hundred tons and upwards, the owner and master of such **carrying salt**  
vessel shall each be punished with fine which may extend to one thousand **in certain**  
rupees, or with imprisonment for a term which may extend to six months, or **vessels.**  
with both.

3. Nothing in section 2 applies to—

Exceptions.

(a) salt covered by a permit granted under [3Chapter V of the Madras  
Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890, or the  
corresponding law for the time being in force in the territories  
administered by the Governor of Fort St. George in Council or the  
Governor of Bombay in Council, as the case may be];

(b) salt covered by a pass granted by any officer whom the Governor of  
Bombay in Council may appoint in this behalf;

(c) such amount of salt carried on board any vessel for consumption by  
her crew or by the passengers or animals (if any) on board as the  
Governor of Bombay in Council may, from time to time, exempt  
from the operation of section 2.

4. When any officer empowered by the **4[ Chief Customs Authority ]** **Power of**  
whether by name or office, to act under this section, has reason to believe, **stoppage,**  
from personal knowledge or from information taken down in writing, that any **search and**  
salt is being carried, or has within the twenty-four hours next before the re- **arrest.**  
quirement first hereinafter mentioned been carried, in any vessel, so as to

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1877, Pt. V, p. 17; for Report of the Select Committee, see *ibid.*, p. 94A; and for Proceedings in Council, see *ibid.*, Supplement, pp. 88, 126, 493 and 1223.

<sup>2</sup> The words "and it shall come into force at once" were repealed by the Repealing and Amending Act, 1901 (XI of 1901)—see the Third Schedule, Part II.

<sup>3</sup> These words in square brackets were substituted for the words "section 28 or section 31 of the Act of the Governor of Bombay in Council, No. VII of 1873, or by a rawana granted under Madras Regulation I of 1805, section 11, clause third," by the Amending Act, 1891 (XII of 1891), printed, General Acts, Vol. IV.

<sup>4</sup> The words "Chief Customs Authority" were substituted for the words "Governor of Bombay in Council" by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

render the owner or master of such vessel liable to the penalties prescribed by section 2, he may require such vessel to be brought to, and thereupon may—

- (a) enter and search the same ;
- (b) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof ;
- (c) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India ; and,
- (d) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section 2.

**Penalties for  
resisting  
officer.**

**5.** Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section 4,

and any person obstructing any such officer in the performance of his duty may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

**Confiscation  
of vessel and  
cargo.**

**6.** Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed by section 2, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged by the Chief Customs-authority, or by such other officer as the Local Government may, from time to time, appoint in this behalf.

Whenever any Customs-officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs-authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such inquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

**Jurisdiction.**

**7.** For the purpose of the adjudication of penalties under section 2 or section 5 every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section 4 or section 5, he may be brought.

**Power to  
exempt from  
operation of  
Act.**

**8.** The Governor General in Council may from time to time, by notification in the Gazette of India, exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and, by like notification, again subject such carriage to the operation of this Act.

THE CENTRAL PROVINCES LAND REVENUE ACT, 1881<sup>1</sup>  
(XVIII OF 1881).

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SCHEDULE.—[*Repealed.*]

ACT No. XVIII OF 1881<sup>1</sup>.

[THE CENTRAL PROVINCES LAND-REVENUE ACT, 1881.]

[8th June, 1881.]

An Act to consolidate and amend the law relating to land-revenue and the powers of Revenue-officers in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to Land-revenue and to the powers of Revenue-officers in the Central Provinces; It is hereby enacted as follows :—

## PART I.

## CHAPTER I.

## PRELIMINARY.

1. This Act may be called the Central Provinces Land-revenue Act, 1881. Short title.  
It extends to all the territories for the time being under the administration of the Chief Commissioner of the Central Provinces <sup>2</sup> \* \* \* \* ; Local extent.  
and it shall come into force on such day <sup>3</sup> as the Chief Commissioner, with the previous sanction of the Governor General in Council, may direct by notification in the local official Gazette. Commence-ment.
2. [Enactments repealed.] *Rep. Act. XII of 1891.*
3. [Pending proceedings.] *Rep. Act XII of 1891.*
4. In this Act, unless there is something repugnant in the subject or context,— Interpreta-tion-clause.  
(1) "Assistant Commissioner" includes also "Extra Assistant Commissioner."  
(2) "legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue-agent.  
(3) "village-cess" means any cess which a person resident or holding lands in a village pays or renders to the proprietors as such of the village, <sup>4</sup>[or to their transferees or assignees as such or to the patel], and includes service rendered or things furnished as well as money paid :

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1880, Pt. V, p. 263; for Proceedings in Council, see *ibid*, Supplement, pp. 1148 and 1302, and *ibid*, 1881, Supplement, pp. 647 and 669.

The Act, with certain modifications is in force in the Taluqas of Nugur, Albaka and Cherla which ceased to be under the administration of the Chief Commissioner of the Central Provinces and became subject to the Government of Madras in pursuance of Proclamation No. 545, dated the 15th April, 1909, issued by the Governor-General in Council under s. 1 of the Government of India Act, 1865, with effect from the first day of July 1909. See Regulation I of 1909, s. 3, *post*.

<sup>2</sup> The words and figures "except those specified in Pt. VI, of the 1st Schedule of the Scheduled Districts Act, 1874," (XIV of 1874), were repealed by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 3, *Con. Prov. Code*.

<sup>3</sup> The 4th November, 1881, see Central Provinces Gazette, 1881, Pt. II, p. 176.

<sup>4</sup> These words in square brackets were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 4, *infra*.

(4) "recognized agent" means a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in such proceeding and also belonging to any class which the Chief Commissioner may, from time to time, by notification in the official Gazette, declare in this behalf.

(5) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified district or districts, from time to time appoint :

<sup>1</sup>(6) \* \* \* \* \*

<sup>2</sup>(6a) "survey-number" means a local area held by, or intended to be settled with, a raiyat under a separate assessment of land-revenue in a village or estate which is the property of the Government.

(7) "mahál" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of this Act, to be a mahál, <sup>3</sup>[but does not include a survey number:]

(8) "village" includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of this Act :

<sup>4</sup>(8a) "proprietor," except in section 4, clause (b), and in sections 61, 62, 63 and 69, includes a gaontia of a Government village in the Sambalpúr District :

(9) "malguzár" means a person who, under the provisions of this Act, has accepted, or is to be deemed to have accepted, the assessment of a mahál, and includes his representatives and assigns, and also any person with whom a settlement has been made before this Act comes into force, and his representatives and assigns :

<sup>5</sup>(10) "málik-makbuzá" means any person owning one or more plots of land separately assessed with revenue in a mahál, and who is not a malguzár, inferior proprietor or member of the proprietary body of the mahál :

(11) "lambardár" means a person appointed in manner prescribed by this Act to represent the proprietary body of a mahál in its relations with the Government :

<sup>1</sup> Cl. (6), which was substituted for the original clause by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 5, was repealed by s. 2 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), *infra*.

<sup>2</sup> Cl. (6a) was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 6, *infra*.

<sup>3</sup> These words were added by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 7, *infra*.

<sup>4</sup> Cl. (8a) was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 8. Sec. 3, cl. (6) has since been repealed by Act XII of 1898, s. 2, which added s. 4A *infra*.

<sup>5</sup> This clause was substituted for the original clause (10) by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 9. The original clause was as follows:—"Málik Makbuzá" means any person owning one or more plots of land assessed with revenue in a mahál; but it does not include a malguzár or inferior proprietor."

(12) "sub-lambardār" means a person so appointed to represent the inferior proprietary body of a mahāl in its relations with the superior proprietors :

(13) "mukaddam" means the executive headman of a village, appointed in manner prescribed by this Act :

<sup>1</sup>(13 a) "patel" means a person appointed in manner prescribed under this Act to represent a body of Government raiyats in their dealings with the Government :

<sup>1</sup>(13 b) "patti" means the lands allotted to any sharer or body of co-sharers in a mahāl by an imperfect partition under this Act :

(14) "tenant" means a person who holds land of another person, and is, or but for a special contract would be, liable to pay rent for such land to such other person ; but it does not include a farmer, mortgagee or thikadār of proprietary rights ;

<sup>2</sup> *Explanation I.*—An inferior proprietor is not, as such, a tenant ;

<sup>2</sup> *Explanation II.*—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur District, is a tenant of the farmer or gaontia for the time being ;

<sup>2</sup> *Explanation III.*—A person who is not an absolute occupancy-tenant or an occupancy-tenant and who holds land from a málik-makbuzá or from the holder of a survey-number is a sub-tenant of that land :

(15) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him :

(16) "absolute occupancy-tenant" means, in reference to any land, a tenant who, at a settlement of such land made before this Act comes into <sup>3</sup> force, or after such a settlement but before this Act comes into force was recorded, by order of a Revenue or Settlement officer, in respect of such land as an "absolute occupancy-rayiat," or in terms equivalent thereto.

(17) "record-of-rights" includes the supplementary administration paper prepared at or after the time of making a settlement before this Act comes into <sup>3</sup> force.

<sup>4</sup> **4A.** (1) Subject to the provisions of sub-section (2) "sír-land" (that is to say, the demesne or permanent home-farm land of a proprietor) includes the following, and no other, land, namely :—

(a) land finally recorded under section 69 as "sír-land" in the papers of the current settlement ;

<sup>1</sup> Clauses (13 a) and (13 b) were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 10, *infra*.

<sup>2</sup> These *Explanations* were substituted for the original *Explanation* by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 11. The original *Explanation* ran as follows :—" *Explanation.*—An inferior proprietor is not, as such, a tenant."

<sup>3</sup> The 4th November 1881 ; see Central Provinces Gazette, 1881, Pt. II, p. 176.

<sup>4</sup> Section 4A was inserted by s. 2 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), *infra*.



- (b) land declared, under section 132, clause (j) to be "sír-land;" and
- (c) land in the Sambalpúr District recorded as "bhogra" in the papers of the current settlement.

Temporary provisions for districts not settled since 1889.

(2) In any local area of which no settlement has been made since the commencement of the <sup>1</sup>Central Provinces Land-revenue Act, 1889, and until the settlement of such local area next following the commencement of the <sup>2</sup>Central Provinces Land-revenue Act, 1898, "sír-land" includes—

XVI of 1889.

XII of 1898.

(a) land defined as sír-land in the foregoing sub-section :

Provided that any such land (other than bhogra) which, at the commencement of the <sup>1</sup>Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor, and which had, after the date of the settlement last preceding the commencement of the said Act, been so unoccupied for a period of six consecutive years shall not be deemed to be "sír-land;"

XVI of 1889.

(b) land which at the commencement of the <sup>1</sup>Central Provinces Land-revenue Act, 1889, was occupied by and had been cultivated by the proprietors or one of the proprietors thereof for a period of not less than twelve consecutive years ;

XVI of 1889.

(c) land which had at the commencement of the <sup>1</sup>Central Provinces Land-revenue Act, 1889, been broken up from waste by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years : Provided that any such land which at the commencement of the <sup>1</sup>Central Provinces Land-revenue Act, 1889, was unoccupied by the proprietor, and had been so unoccupied by him for six consecutive years shall not be deemed to be "sír-land."

XVI of 1889.

XVI of 1889.

*Explanation I.*—For the purposes of sub-section (2), land shall be deemed to be occupied by the proprietor when it is leased out by him with an express reservation of his sír-rights, and land shall be deemed to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

*Explanation II.*—For the purposes of this section—

- (a) the word "proprietor" shall be deemed to include an assignee of proprietary rights, but not a málik makbuzá :
- (b) when by any local custom land is liable to exchange or redistribution among the cultivators thereof, land which is not "sír-land," and which is taken in exchange for "sír-land," becomes "sír-land" and the "sír-land" given in exchange for that land ceases to be "sír-land."
- (c) subject to the proviso to sub-section (2), clause (a), land which has been recorded as "sír-land" in the papers of any settlement made before the commencement of this Act shall be deemed to have been finally recorded as "sír-land" under section 69.

<sup>1</sup> *Infra.*

<sup>2</sup> *Supra.*

## PART II.

## CHAPTER II.

## OF REVENUE-OFFICERS; THEIR POWERS AND PROCEDURE.

- <sup>1</sup> 5. There shall be the following classes of revenue officers, namely :— Revenue-officers.  
 the Chief Commissioner,  
 the Financial Commissioner,  
 Commissioners,  
 Deputy Commissioners,  
 Assistant Commissioners,  
 Tahsildars,  
 Naib-Tahsildars.

<sup>1</sup> 6. (1) The Chief Commissioner shall, in all revenue matters, be subject to the control of the Governor General in Council. Subordina-  
 tion of  
 officers.

(2) The Financial Commissioner shall be subject to the control of the Chief Commissioner.

(3) All other Revenue-officers shall be subordinate to the Chief Commissioner and the Financial Commissioner; all Revenue-officers in a division shall be subordinate to the Commissioner of the division; and all Revenue-officers in a district shall be subordinate to the Deputy Commissioner of the district.

(4) An officer in charge of a village-survey in a district which is not under settlement may be invested by the Chief Commissioner with the powers of a Revenue-officer of any class, and, when so invested, shall be subordinate to such officer or officers as the Chief Commissioner may direct.

<sup>1</sup> These sections were substituted for the original ss. 5 and 6 by the Central Provinces Financial Commissioner's Act, 1908 (XIII of 1908), s. 4, with effect from the 10th December, 1908, when that Act was brought into force, see s. 1 of that Act, *infra*, and Central Provinces Gazette, 1908, Pt. I, p. 920.

The original sections 5 and 6 were as follows :—

"5. The Chief Commissioner shall, subject to the control of the Governor General in Council, be the Chief Controlling Revenue-authority.

"6. (1) Besides the Chief Commissioner, there shall be the following classes of Revenue-officers, namely :—

Commissioners ;  
 Deputy Commissioners ;  
 Assistant Commissioners ;  
 Tahsildars ;  
 Naib Tahsildars.

(2) All Revenue-officers are subordinate to the Chief Commissioner; all Revenue-officers in a division are subordinate to the Commissioner of the division; and all Revenue-officers in a district are subordinate to the Deputy Commissioner of the district.

(3) An officer in charge of a village-survey in a district which is not under settlement may be invested by the Chief Commissioner with the powers of a Revenue-officer of any class, and when so invested, shall be subordinate to such officer or officers as the Chief Commissioner may direct."

Appoint-  
ment, suspen-  
sion and re-  
moval of  
Commission-  
ers, Deputy  
and Assist-  
ant Commis-  
sioners.

Appoint-  
ment, sus-  
pension, and  
removal of  
Táhsildárs  
and Náib  
Táhsildárs.

Persons  
holding  
office  
when Act  
comes into  
force.

Power to ap-  
point addi-  
tional Com-  
missioners,  
Deputy  
Commission-  
ers and  
Táhsildárs.

Chief Com-  
missioner  
may invest  
Assistant  
Commis-  
sioner with  
powers of  
Deputy  
Commission-  
er.

Officers  
transferred  
to retain  
powers with  
which they  
were  
invested.

Provision for  
discharge of  
duties of  
Deputy Com-  
missioner  
dying or  
being  
disabled.

7. Subject to the control of the Governor General in Council, the Chief Commissioner shall appoint, and may suspend or remove, Commissioners, Deputy Commissioners and Assistant Commissioners.

8. The Chief Commissioner shall appoint, and may suspend or remove, Táhsildárs; and may also make rules for regulating the appointment, duties, suspension and removal of Náib Táhsildárs.

9. All Commissioners, Deputy Commissioners, Assistant Commissioners, Táhsildárs and Náib Táhsildárs holding office as such in the territories to which this Act extends when this Act comes into force shall be deemed to have been appointed hereunder.

10. The Chief Commissioner may appoint any person to be an additional Táhsildár in any Tahsil, or, with the sanction of the Governor General in Council, to be an additional Commissioner or additional Deputy Commissioner in any division or district, and may suspend or remove any person so appointed, but subject, in the case of an additional Commissioner, or additional Deputy Commissioner, to the like sanction.

The Chief Commissioner may invest any additional Commissioner, Deputy Commissioner or Táhsildár appointed under this section with all or any of the powers conferred by this Act on a Commissioner, Deputy Commissioner or Táhsildár, as the case may be.

11. The Chief Commissioner may invest any Assistant Commissioner attached to a district with all or any of the powers conferred by this Act on Deputy Commissioners.

12. Whenever any Assistant Commissioner, Táhsildár or Náib Táhsildár is transferred from one district or tahsil to another, he shall, unless the Chief Commissioner otherwise directs, exercise in the district or tahsil to which he is transferred all the powers with which he was, under any provision of this Act, invested by the Chief Commissioner in the district or tahsil from which he is transferred.

13. When a Deputy Commissioner dies or is disabled from performing his duties, such officer as the Chief Commissioner may by rule direct shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Act until a successor to the Deputy Commissioner so dying

<sup>1</sup> The Act came into force on 4th November, 1881; see Central Provinces Gazette, 1881, Pt. II, p. 176.

or disabled is appointed and such successor takes charge of his office, or until the person so disabled resumes charge of his office.

**14.** The Chief Commissioner may, from time to time, by notification in the official Gazette, alter the limits of any district or tahsil, create new districts or tahsils and abolish existing districts or tahsils.

Chief Commissioner may alter limits of district or tahsil.

**15.** The Chief Commissioner may, subject to the control of the Governor General in Council, invest any Revenue-officer with any of the following powers :—

Power to invest Revenue-officers—

for the purpose of disposing of cases under this Act, any power conferred by the <sup>1</sup> Code of Civil Procedure on a Civil Court ;

with power conferred by Code of Civil Procedure ;

power to delegate to any Revenue-officer subordinate to him the exercise of any power or performance of any duty conferred or imposed on him by this Act ;

with power to delegate powers.

and, subject to the like control, may determine the Revenue-officer by whom any case or class of cases for which no express provision in this behalf is made in this Act shall be disposed of.

**16.** Subject to any rules which the Chief Commissioner may make in this behalf, a Deputy Commissioner may—

Power of Deputy Commissioner to distribute work.

(a) refer any case to any Revenue-officer subordinate to him for investigation and report, or, if such officer has power to dispose of such case, for disposal ; or

(b) direct that any Revenue-officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on such case or class, or, if he has power, dispose of it himself.

The Subordinate Revenue-officer shall submit his report on any case referred to him under this section for report to the Deputy Commissioner, or otherwise, as may be directed in the order of reference ; and the officer receiving such report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold such investigation himself.

**17.** The Chief Commissioner <sup>2</sup>[or the Financial Commissioner], the Commissioner or the Deputy Commissioner may withdraw any case pending before any Revenue-officer subordinate to him, and either dispose of it himself, or refer it for disposal to any other Revenue-officer subordinate to him and having power to dispose of the same.

Power of Superior Revenue-authorities to withdraw and transfer cases.

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), Genl. Acts, Vol. VI.

<sup>2</sup> These words in square brackets were inserted by the Central Provinces Financial Commissioner's Act, 1908 (XIII of 1908), s. 5, with effect from the 10th December, 1908, when that Act was brought into force, see note to s. 5, *ante*.

Power of Revenue-officers to enter on land, etc.

**18.** All Revenue-officers and persons acting under their orders may, in the performance of any duty under this Act, enter upon and survey land, and demarcate boundaries, and do all other acts necessary to the business in which they are engaged.

Power for Revenue and Settlement-officers to require attendance of persons and production of documents.

**18A.** (1) Any Revenue-officer or class of Revenue-officers and any officer appointed to make a settlement may, if specially empowered in this behalf by the Chief Commissioner, order all persons whose presence may be, in the opinion of the officer making the order, necessary for any of the purposes of this Act to attend either in person or by authorized agent at any specified time and place, and may also direct them to produce any written document in their possession, and all such persons shall be legally bound to obey the order.

(2) The power to require the attendance of parties in person shall, so far as may be, be subject to the provisions of section 176 of the <sup>2</sup> Code of Civil Procedure.

Power to make rules to regulate procedure.

**19.** The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue-officers in cases for which a procedure is not prescribed by this Act, and may by any such rule direct that any provisions of the <sup>2</sup> Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue-officers.

Persons by whom appearances, and applications may be made before and to Revenue-officer.

**20.** All appearances before, applications to, and acts to be done before any Revenue officer under this Act may be made or done—

(a) by the parties themselves; or,

(b) with the permission of the officer, by their recognized agents or any legal practitioner;

Obligation of parties to attend in person.

Provided that the employment of a legal practitioner or recognized agent shall not excuse the personal attendance of a party to any proceeding in cases where such attendance is required by any order of the Revenue-officer.

Legal practitioner's or agent's fees not allowed unless for special reasons.

**21.** The fees of a legal practitioner or recognized agent shall not be allowed as costs before any Revenue-officer unless such officer considers, for reasons to be recorded by him in writing, that such fees should be allowed.

Appeals.

**22.** An appeal shall lie against every decision or order under this Act—

(a) when such decision or order is passed by any Revenue-officer subordinate to the Deputy Commissioner, except an Assistant Commissioner, exercising the powers of a Deputy Commissioner—to the Deputy Commissioner;

<sup>1</sup> Section 18A was inserted by the Central Provinces Land-revenue Act, 1889 ( XVI of 1889), s. 13; *infra*.

<sup>2</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), Gent. Acts, Vol. VI.

(b) when such decision or order is passed by a Deputy Commissioner, or by an Assistant Commissioner exercising the powers of a Deputy Commissioner, whether in the first instance or an appeal—to the Commissioner of the division;

(c) when such decision or order is passed on appeal or otherwise by the Commissioner of a division—to the <sup>1</sup>[Financial Commissioner]:

Provided that in no case shall a third appeal be allowed.

**23.** No appeal shall lie—

Limitation  
of appeals.

(a) in the Court of the Deputy Commissioner or an Assistant Commissioner exercising the powers of a Deputy Commissioner—after the expiration of thirty days from the date of the decision or order complained of; or

(b) in the Court of the Commissioner—after the expiration of sixty days from such date; or

(c) in the Court of the <sup>1</sup>[Financial Commissioner]—after the expiration of ninety days from such date.

**XV of 1877.** In computing such periods of limitation, and in all respects not herein specified the provisions of the Indian Limitation Act, 1877<sup>2</sup>, shall apply.

**24.** Any Commissioner or Deputy Commissioner may at any time, for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of any Revenue-officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit:

Powers of  
revision of  
Commission-  
er and De-  
puty Com-  
missioner.

Provided that he shall not under this section modify or reverse any order affecting any question of right between private persons, without having given to the parties interested reasonable notice to appear and be heard in support of such order.

**25.** The Chief Commissioner <sup>3</sup>[or the Financial Commissioner] may at any time call for and examine the record of any case pending before, or disposed of by, any Revenue-officer, and may pass such order in reference thereto as he thinks fit:

Power<sup>2</sup> of  
revision of  
Chief Com-  
missioner.

Provided that no order affecting any question of right between private persons shall be passed under this section unless the Chief Commissioner <sup>3</sup>[or the Financial Commissioner] has given the parties interested an opportunity of being heard.

<sup>1</sup> The words "Financial Commissioner" were substituted for the words "Chief Commissioner" by the Central Provinces Financial Commissioner's Act, 1908 (XIII of 1908), s. 6, which came into force on the 10th December, 1908, see note to s. 5 ante.

<sup>2</sup> See now the Indian Limitation Act, 1908 (IX of 1908), Genl. Acts, Vol. VI.

<sup>3</sup> These words in square brackets were inserted by the Central Provinces Financial Commissioner's Act, 1908 (XIII of 1908), s. 5, which was brought into force on the 10th December, 1902, see note to s. 5 ante.

Review of  
orders.

**26.** Every Revenue-officer may, either on his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, orders passed by himself or by any of his predecessors in office :

Provided as follows :—

- (1) when a Commissioner or Deputy Commissioner thinks it necessary to review any order which he has not himself passed, and when an officer under the rank of a Deputy Commissioner proposes to review any order, whether passed by himself or by any predecessor he shall first obtain the sanction of the officer to whom he is immediately subordinate :
- (2) no order shall be modified or reversed unless reasonable notice has been given to the parties interested to appear and be heard in support of such order :
- (3) no order against which an appeal has been preferred shall be reviewed while such appeal is pending :
- (4) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings ; and no application for the review of such an order shall be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within such period.

For the purposes of this section, the Deputy Commissioner shall be deemed to be the successor in office of any Revenue-officer who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

### PART III.

### OF SURVEY AND SETTLEMENT.

#### CHAPTER III.

##### PRELIMINARY.

Notification  
of revenue-  
survey.

**27.** Whenever it appears to the Chief-Commissioner that a revenue-survey should be made in any local area, he shall publish a notification in the official Gazette directing that such survey be made and cause translations of such notification in the language of the district to be posted up in conspicuous places in such area ; and thereupon all officers in charge of such survey, their assistants, servants, agents and workmen, may enter upon the lands to be surveyed, and erect survey marks, and do all other acts necessary for making the survey.

Effect  
hereof

**28.** When any local area is to be settled, the Chief Commissioner may, with the previous sanction of the Governor General in Council, issue a notification of settlement, and in such notification shall—

(a) define the local area to be settled ;

(b) specify the operations which are to be carried out in the settlement ;

and may from time to time with the like sanction amend, alter or cancel such notification.

Power to amend notification.

Every such notification, amendment, alteration and cancellation shall be published in the local official Gazette.

**29.** The Chief Commissioner may from time to time appoint one or more officers (hereinafter called Settlement-officers) to make the settlement of such area ; and, when he appoints more than one such officer, he shall appoint one of them (hereinafter called the Chief Settlement-officer)<sup>1</sup> to control such settlement, and all other officers appointed for the purposes of such settlement shall be subordinate to the Chief Settlement-officer.

Power to appoint Settlement-officers ;

The Chief Commissioner may suspend or remove any officer appointed under this section.

and to suspend and remove them.

**30.** During the progress of the settlement of any local area, the Chief Commissioner may invest any Settlement-officer within such area with all or any of the powers of a Deputy Commissioner under this Act, to be exercised by him in such classes of cases as the Chief Commissioner may from time to time direct.

Settlement-officer may be invested with powers of Deputy Commissioner.

**31.** The provisions of section 11 and sections 15 to 26, both inclusive, shall apply, *mutatis mutandis*, to Settlement-officers and to proceedings before them, the expression "Settlement-officer" being read for the expressions "Assistant Commissioner" and "Revenue-officer," and the expression "Chief Settlement officer" for the expression "Deputy Commissioner," wherever those expressions occur :

Certain provisions of Chapter II applied to Settlement-officers.

Provided that an appeal from any appealable order passed by a subordinate Settlement-officer shall lie to the Chief Settlement-officer if preferred within sixty days from the date of such order :

Provided also that no appeal shall lie from any decision of a Chief Settlement-officer which can be called in question in a Civil Court.

**32.** The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council,—

Appointment of Settlement-commissioner ;

(a) appoint a Settlement-commissioner, and transfer to him, within any local area under settlement, all or any of the powers which the Commissioner of the division, if the land to be settled were wholly situate within such division, would otherwise exercise under this Act in matters connected with such settlement ; and

<sup>1</sup> Notwithstanding anything contained in s. 29, the Chief Commissioner shall be deemed to have, and to have had, authority to assign to the Settlement-officer the title "Assistant Settlement-officer" and to the Chief Settlement-officer the title "Settlement-officer" see the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 40 ; *infra*.



delegation to him of Chief Commissioner's powers.

- (b) delegate to the Settlement-commissioner such of his own powers in regard to matters connected with such settlement as he thinks fit.

Power to invest Settlement-officers with Civil Court powers.

**33.** When any local area is under settlement, the Chief Commissioner may invest any subordinate Settlement-officer with the powers of any of <sup>1</sup>[the last five classes] of Courts described in section 4 of <sup>2</sup>[the Central Provinces Civil Courts Act, 1885<sup>3</sup>], and the Chief Settlement-officer with the powers of <sup>4</sup>XVI of 1885. a Court of a Deputy Commissioner described in the same Act, <sup>4</sup>[section 7], for the trial, in the first instance, of any of the following classes of suits instituted within such area (namely):—

- (a) suits for arrears of rent due on account of any right of pasturage, forest-rights, fisheries or the like;
- (b) suits by lambardars for arrears of revenue payable through them by the proprietors whom they represent;
- (c) suits by proprietors for their share of the profits of an estate or any part thereof after payment of the revenue and village-expenses, or for a settlement of accounts;
- (d) suits by muáfídar's or assignees of revenue for arrears of revenue owing to them as such muáfídar's or assignees;
- (e) suits by superior proprietors for arrears of revenue due to them as such superior proprietors;
- (f) suits by proprietors and others in receipt of the rent of land against any agents employed by them in the management of land or collection of rents, or against the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession;
- (g) suits regarding any matter which a Settlement-officer is required to decide or to enter in the record-of-rights, and of which Civil Courts can take cognizance;
- (h) suits relating to land, or the rent, profits or occupation of land.

Chief Settlement-officer to have powers of Deputy Commissioner.

**34.** When the Chief Commissioner invests any subordinate Settlement-officer with the powers of a Civil Court for the trial of any of the suits mentioned in section 33, the Chief Settlement-officer to whom such Settlement-officer is subordinate shall have the powers of the Court of a Deputy Commissioner described in <sup>5</sup>[the Central Provinces Civil Courts Act, 1885, <sup>3</sup>section 16, XVI of 1885]

<sup>1</sup> These words in square brackets were substituted for the words "the first five grades, etc.," by the Amending Act, 1891 (XII of 1891); Genl. Acts, Vol. IV.

<sup>2</sup> These words in square brackets were substituted for the words and figures the "Cen. Prov. Courts Act, 1865" by the Amending Act, 1891 (XII of 1891).

<sup>3</sup> See now the Central Provinces Courts Act, 1904 (II of 1904), Cen. Prov. Code.

<sup>4</sup> This word and figure in square brackets were substituted for the words and figures "sections 12, 19 and 20" by the Amending Act, 1891 (XII of 1891).

<sup>5</sup> These words and figures in square brackets were substituted for the words and figures "the Central Provinces Courts Act, 1865, ss. 12, 19 and 20," by the Amending Act, 1891 (XII of 1891); Genl. Acts, Vol. IV.

and section 17, sub-section (I), and the powers of a Court of a Commissioner described in the same Act, section 15, sub-section (I)] with reference to proceedings before, or decrees and orders of, such Settlement-officer in such suits.

**35.** When any local area is under settlement and Settlement-officers have been invested with the powers mentioned in section 33 in such local area, the Chief Commissioner may, with respect to all or to any of the suits specified in that section, declare that all or any of the decrees and orders passed in exercise of the powers of Courts <sup>1</sup>[of the last four classes] aforesaid, by Assistant Commissioners or Tahsildars not being settlement-officers, shall be appealable to the Chief Settlement-officer, and not to the Deputy Commissioner of the district.

Appeals in suits specified in section 33 when to lie to Chief Settlement-officer.

**36.** When any local area is under settlement and the Settlement-officers therein have been invested with powers under section 33, the Chief Commissioner may withdraw from the jurisdiction of the ordinary Civil Courts within such area the classes of suits which Settlement-officers have power to dispose of under that section, or he may direct that, in respect of such suits the Settlement-officers shall have concurrent jurisdiction with the ordinary Civil Courts :

Division of civil work between Settlement-officers and ordinary Courts.

Provided that no proceedings which have been inadvertently or erroneously taken before the Civil Court shall be deemed to be invalid merely on the ground that, by the Chief Commissioner's order, they should have been taken before a Settlement-officer.

**37.** Nothing in section 31 shall apply to suits and appeals or other proceedings instituted before, or determined by, Settlement-officers in pursuance of powers conferred upon them under section 33, 34 or 35.

Provisions of section 31 not to apply to certain suits.

**38.** Except as provided in sections 33, 34 and 35, the decrees and orders of a Settlement-officer passed, whether in the first instance or on appeal, in exercise of the powers of a Civil Court of any grade, shall, for the purposes of appeal, reference and revision, be deemed to be decrees and orders of a Civil Court of such grade, and no appeal shall lie under the provisions of section 22 from such decrees or orders.

Appeal, reference and revision.

**39.** Every settlement notified under section 28 shall be deemed to be in progress until the Chief Commissioner, by notification in the official Gazette, declares that it is completed.

Duration of settlement-operations.

When the settlement of any local area has been notified as completed, all the powers exercised by the Settlement-officers in such area shall cease, and all suits and applications pending before such officers shall be transferred to such of the Courts ordinarily having jurisdiction in such cases as the Commissioner of the division directs, or, if there are no such Courts, shall be disposed of in such manner as the Chief Commissioner directs.

Cases pending at close of settlement-operations.

<sup>1</sup> These words in square brackets were substituted for the words " the first four grades " by the Amending Act, 1891 (XII of 1891); Genl. Acts, Vol. IV.

## CHAPTER IV.

## OF DEMARCATION.

*Unowned Lands.*

Settlement-officer to invite claims to lands appearing to have no owner.

**40.** When any local area is under settlement, the Settlement-officer shall make lists of all lands in such area which appear to him to have no lawful owner, and shall thereupon issue a notification declaring his intention to demarcate such lands as the property of the Government, and inviting every person having claims to or over them to present in his Court, within three months from the date of the notification, a petition in writing setting forth such claims and the respective grounds thereof.

Application of Act XXIII of 1863.

**41.** Every such notification shall be deemed to be an advertisement under <sup>1</sup> Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste-lands*), section 1 ;

the demarcation of such lands shall be deemed to be a disposition of them within the meaning of that Act ;

the Settlement-officer shall exercise all the powers vested in the Collector by that Act ; and

claims to or over the land comprised in such notification shall be dealt with as nearly as may be in the manner prescribed in that Act.

Procedure when limited right over land established.

**42.** Whenever a claim to the exercise or enjoyment of any right (not amounting to the right of exclusive possession) in, to or over any land comprised in such notification is established, either before the Settlement-officer or before the Court constituted under the said <sup>1</sup> Act No. XXIII of 1863, section 7, the Settlement-officer may assign to the claimant as his property a definite portion of such land, or, with the sanction of the Chief Commissioner, he may otherwise compensate the claimant ; and such assignment or compensation shall be held to extinguish all claims on account of such exercise or enjoyment.

*Maháls.*

Power to form maháls.

**43.** The Settlement-officer may declare any local area to be a mahál.

*Excluded lands.*

Settlement-officer may exclude any town or land from settlement-operations.

**44.** For the purpose of excluding from all or any of the operations of the settlement any town or any land from which the owner can derive no profit, the Settlement-officer may mark off the site and determine the limits of such town or land :

Provided that no land in respect of which land-revenue is payable at the date of the notification issued under section 28 shall, under this section, be exempted from assessment without the sanction of the Chief Commissioner.

<sup>1</sup>The Waste Lands (Claims) Act, 1863 ; Genl. Acts, Vol. I.

*Boundary-marks.*

**45.** When any local area is under settlement, the Settlement-officer may order all persons who have proprietary rights in the land comprised in such area,<sup>1</sup> [ or who are in possession of the whole or any part of the land as gaontias or as thikadars of Government land, or as raiyats who have accepted the assessment of a survey-number ], to erect boundary-marks of such description and at such places as he thinks necessary in order to define the limits of the maháls, fields or other lands in their possession, or to repair boundary-marks already existing, and may fix a reasonable time for obeying his order ;

Erection of new, and repair of existing, boundary-marks.

and, if his order is not obeyed within such time, may cause such marks to be erected or repaired under his own orders, and may recover the cost of such erection or repair from the persons against whom his order was made, in such proportion as he thinks fit.

## CHAPTER V.

## OF THE ASSESSMENT OF LAND-REVENUE.

**46.** On every mahál a definite and separate sum shall be assessed as land-revenue ; but the sum so assessed may be reduced in such manner and to such extent as the Chief Commissioner thinks fit, for any period not exceeding ten years from the date on which the assessment takes effect :

Separate sum to be assessed on every mahál. Progressive assessments.

[Provided that the Chief Commissioner may declare that any mahál which consists wholly or principally of forest is a forest-mahál, and may direct that the assessment shall be a specified share of the gross or net annual value of the produce of the mahál to be determined from time to time for each year, or part of a year, or that the assessment shall be in the form of rates chargeable on the produce of the mahál in each year or part of a year.]

**47.** The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, give instructions to the Settlement-officer as to the principle on which land-revenue is to be assessed, and as to the sources of miscellaneous income to be taken into account in the assessment.

Matters as to which Chief Commissioner is to instruct Settlement-officer.

**48.** In assessing a mahál all land situate therein shall be taken into account except the following (that is to say) : -

What land taken into account in assessing mahál.

- (a) land purchased free from revenue under any rules for the time being in force to regulate the sale of waste-lands ;
- (b) land in respect of which the revenue has been redeemed under any rules for the time being in force ;

<sup>1</sup> These words and the Proviso to s. 46 in square brackets were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), ss. 14 and 15 respectively ; *infra*.

- (c) land excluded from assessment under section 44 ;
- (d) land in respect of which a claim to hold it free from revenue as against the Government is established under the provisions hereinafter contained ;
- (e) land which the Chief Commissioner, subject to the control of the Governor General in Council, may from time to time exempt from assessment.

Assessment  
to whom to  
be offered.

**49.** The assessment of every mahál shall be offered to the entire proprietary body of such mahál :

Provided that, when superior and inferior proprietary rights co-exist in the same mahál, the Settlement-officer may, subject to such rules as the Chief Commissioner may make in this behalf, determine whether the assessment shall be offered to the superior or to the inferior proprietors.

Subject to such rules as the Chief Commissioner may make in this behalf, the Settlement-officer may determine the manner and proportion in which the proprietary profits of the mahál shall be allotted between the superior and the inferior proprietors.

When a proprietor has mortgaged his rights in any mahál, and the mortgagee has entered into possession, such mortgagee, so long as he is in possession, shall, for the purposes of this section, stand in the place of the mortgagor.

Sub-settle-  
ment to be  
made with  
inferior pro-  
prietors when  
settlement is  
made with  
superior.

**50.** When in a mahál in which superior and inferior proprietors co-exist the Settlement-officer makes a settlement with the superior proprietors, he shall make on their behalf a sub-settlement with the inferior proprietors, by which such inferior proprietors shall be bound to pay to the superior proprietors an annual revenue equal to the land-revenue with which the mahál is assessed and to the profits to which the superior proprietors are entitled under section 49.

Power to  
give direc-  
tions as to  
payment of  
certain profits  
of superior  
proprietors.

**51.** When in any such mahál the settlement is made with the inferior proprietors, the Settlement-officer may direct that the profits to which the superior proprietors are entitled under section 49 shall be paid by the inferior proprietors direct to such superior proprietors, or that such profits shall be collected as if they were land-revenue and shall be paid to the superior proprietors from the Government treasury.

Power to  
make rules  
for reporting  
assessment  
for sanction.

**52.** The Chief Commissioner may make rules prescribing the manner in which the Settlement-officer shall report for sanction his rates and method of assessment ; and no assessment shall be offered without the previous sanction of the Chief Commissioner.

Offers of  
assessment  
to be made  
subject to  
revision and  
confirmation.  
Option to  
accept or  
refuse  
assessment.

**53.** In making any offer of assessment, the Settlement-officer shall state that it is made subject to confirmation by the Governor General in Council and also to revision by the Chief Commissioner at any time before such confirmation is received.

**54.** It shall be in the option of the persons to whom an assessment is offered, to accept or refuse the same.

If they are willing to accept it, they shall make and sign an acceptance in writing, in such form as the Chief Commissioner may, from time to time, prescribe in this behalf and deliver the same to the Settlement-officer.

**155.** Any proprietor who, within such reasonable period as may be specified by the Chief Commissioner, fails to make, sign and deliver such acceptance, or to inform the Settlement-officer that he refuses the proposed assessment, shall, if the Settlement-officer by an order in writing so directs, be deemed to have accepted such assessment.

**156.** Whenever the assessment of a mahál has been accepted under this Act, the persons who have accepted it shall be bound to pay the amount thereof from such date and for such term as the Chief Commissioner may appoint in this behalf, or, if at the expiry of that term no new assessment has been made and is ready to take effect, until a new assessment has been made and is ready to take effect:

Provided as follows:—

- 1st*, any assessment may be rescinded by the Chief Commissioner at any time before it has been confirmed by the Governor General in Council;
- 2ndly*, the Governor General in Council may rescind any assessment submitted to him for confirmation;
- 3rdly*, if all the málguzárs of a mahál, six months before the expiry of the term fixed under this section, apply in writing to the Deputy Commissioner stating that they are unwilling that the assessment should continue in force beyond the expiry of such term, the assessment shall, on the expiry of such term, cease to be in force.

**256A.** (1) If the assessment accepted is a specified share of the produce of a forest-mahál to be determined from time to time or in the form of rates chargeable on the produce of a forest-mahál, the Deputy Commissioner shall, from time to time, as the conditions of the assessment may require, notify to the málguzárs, on or before such date, or at such intervals as the Chief Commissioner may prescribe, the amount payable in respect of the forest-mahál.

(2) The Deputy Commissioner and his subordinates may at any time enter on the forest-mahál and do all acts necessary for ascertaining the amount payable in respect thereof.

**57.** Where there is but one class of proprietors in a mahál, and all refuse to accept in manner required by section 54 the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, exclude them from settlement for a period not exceeding thirty years from the date of such exclusion, and may either let the mahál in farm or take it under direct management.

<sup>1</sup> As to the application of ss. 55 and 56 to *raiyatwári* settlements, see s. 67 G, *infra*.

<sup>2</sup> Section 56A was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 16, *infra*.

Mode of acceptance.

Proprietor not accepting in manner prescribed may be deemed to have accepted.

Effect of acceptance of assessment.

Assessment may be rescinded by Chief Commissioner; or by Governor General in Council. Málguzárs may object to continuance of assessment beyond term of settlement.

When assessment is in form of rates Deputy Commissioner to publish record of amount payable.

Procedure when assessment is refused.

Procedure  
when only  
some proprie-  
tors accept  
assessment.

**58.** If some of the proprietors consent, and some refuse, so to accept the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, if the interest of the recusant proprietors in the lands taken into account in the assessment consists entirely of lands held by them separately from the other proprietors, exclude such recusant proprietors from settlement for a period not exceeding thirty years from the date of such exclusion and either let their lands in farm or take such lands under direct management.

In other cases the assessment of the entire mahál shall be offered to the proprietors who consented to accept the assessment when originally offered, and if they refuse it, the mahál shall be dealt with under the provisions of section 57.

When the recusant proprietors are excluded under this section, the lands of the proprietors who consented to accept the assessment originally offered shall be deemed to be a separate mahál and shall be assessed as such; and such assessment shall be offered to the proprietors so consenting; and, if the lands of the recusant proprietors are let in farm, the farm shall be first offered to the proprietors who consented to accept the assessment originally offered.

Procedure  
on refusal of  
assessment  
in village  
in which  
superior  
and inferior  
rights  
co-exist.

**59.** When an assessment is offered in a mahál in which both superior and inferior proprietors co-exist, —

- (a) if all the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse to accept as aforesaid the assessment offered, the assessment shall be offered to the proprietors of the other class; and, if all such proprietors refuse the assessment, the Settlement-officer shall proceed as provided in section 57;
- (b) if some only of the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse the assessment, he may either proceed as if all had refused it or may deal with the mahál under section 58:

Provided that, if, in the case contemplated by clause (b), the proprietors who consented to accept the assessment when originally offered refuse to accept it, such assessment shall be offered to the other class of proprietors.

Procedure  
on refusal of  
assessment  
by inferior  
proprietors.

**60.** If all or any of the inferior proprietors refuse any assessment offered under section 50, the Settlement-officer may exclude them all from the sub-settlement, and assign the proprietary management and profits of the mahál to the superior proprietor for any term not exceeding the term of settlement.

Allowance  
to excluded  
proprietors.

**61.** Any proprietor excluded from settlement under section 57 or section 59, clause (a), shall be entitled to receive from the Government an annual allowance, the amount of which shall be fixed by the Chief Commissioner, but which shall not be less than five per cent., or more than ten per cent., on the amount of the assessment offered to him by the Settlement-officer.

Excluded  
proprietors  
to have

**62.** Any proprietor excluded from settlement or sub-settlement under sections 57 to 60, both inclusive, shall be entitled to retain possession of his

sir-land (if any) as if he were an absolute occupancy-tenant, and the rent to be paid by him for such land during the term of his exclusion shall be fixed by the Settlement-officer accordingly.

occupancy  
rights in  
their  
sir-land.

63. The aggregate amount of any allowance under section 61, and of the difference between the rent fixed under section 62 and the rent which the excluded proprietor would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. on the amount of the assessment offered to him by the Settlement-officer.

Aggregate  
amount of  
allowance  
granted to  
and deduc-  
tion from  
rent allowed  
to excluded  
proprietor.  
Sub-settle-  
ment with  
málík-mák  
buzás and  
other like  
holders of  
land.

64. The Settlement-officer may make, on behalf of málík-mákbuzás or other like holders of land such a sub-settlement as shall secure to them from the málguzárs of the mahál their existing rights; and may provide that, in addition to the land-revenue payable by them, they shall pay to the málguzárs such percentage thereon, not exceeding twenty per cent., as may, in opinion, be sufficient to compensate the said málguzárs for their responsibility in respect of the land-revenue, and to provide for the fees of lambardárs and mukaddams.

65. The amount of revenue payable under a sub-settlement shall be a first charge upon all the land comprised in such sub-settlement.

Revenue  
payable  
under sub-  
settlement  
to be first  
charge on  
land.

<sup>1</sup> 65A. (1) The Settlement-officer may inquire into the claim of any person holding from a proprietor a village or part of a village as thikádár, gaontia or farmer, and may, notwithstanding any contract to the contrary, and with the previous sanction of the Chief Commissioner, declare such thikádár, gaontia or farmer to be "protected" for the purposes of this section:

Power to  
inquire into  
the claims  
of thikádárs,  
gaontias and  
farmers.

Provided that no thikádár, gaontia or farmer shall be declared to be protected under this section unless he or those from whom he has inherited has or have been in possession of the village or part of the village for a period of not less than twenty years, or unless it is proved to the satisfaction of the Settlement-officer that he or those from whom he has inherited has or have established the village or substantially improved it at his or their own cost:

Provided also that when a thikádár, farmer or gaontia is entitled to claim protection within the meaning of this section, the Settlement-officer may, in his discretion, and with the previous sanction of the Chief Commissioner, instead of declaring him to be protected, confer on him the rights of an occupancy-tenant in respect of the whole or part of any land which he may be cultivating, whether as sir-land or otherwise, at the time of the inquiry, and shall determine the rent payable by him as occupancy-tenant of such land.

<sup>1</sup> The present s. 65A was substituted by s. 3 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), for the s. 65A inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 17; *infra*.



(2) When a thikádár, farmer or gaontia is declared to be protected under this section, the Settlement-officer may, at the request of the proprietor of the village, determine the amount of the thiká-jama which shall be payable by such thikádár, gaontia or farmer to the proprietor of the village on and from the date on which the settlement of the village takes effect.

(3) Any person who, having held any village or part of a village as a thikádár, farmer or gaontia, was ejected by the proprietor from, or lost possession otherwise than by transfer or voluntary surrender of, such village or part of a village, and who had at the date of such ejection or dispossession earned a claim to be protected, may at any time before the expiration of two years from the date of such ejection or dispossession apply to the Settlement-officer to re-instate him in the possession of the village or part of the village from which he was ejected; and the Settlement-officer may, with the previous sanction of the Chief Commissioner, replace him in the possession of such village or part of a village and declare him to be protected, or may confer upon him the rights of an occupancy-tenant in the whole or part of any land in the village which he was cultivating at the time of his ejection, and place him in possession of such land and determine the rent which shall be payable by him to the proprietor as such tenant.

*Explanation.*—Any such person as is described in this sub-section who, having been ejected subsequently to the first day of January, 1893, applied to a Revenue-officer for re-instatement within two years of his ejection, shall be deemed to have made the application required by this sub-section.

(4) The incidents of the tenure of a thikádár (including a farmer or gaontia) who has been declared to be protected under this section shall be as follows :—

(a) the tenure shall be heritable, but not transferable by sale, gift, mortgage or dower; it shall not be saleable in execution of any decree, nor shall any decree be passed for the sale thereof; and, save in so far as any arrangements to the contrary are in force at the time of the declaration, it shall not be partitioned and shall devolve on one member only of the thikádár's family;

(b) when on the death of a thikádár there are two or more heirs bearing the same relationship to him, the eldest of such heirs shall succeed:

Provided, first, that of such heirs an heir who was joint with the thikádár shall have preference over an heir who was separate; and

Provided, secondly, that the eldest of two or more such heirs shall be at liberty at the time of succession to resign his right in favour of another heir bearing the same degree of relationship to the deceased thikádár as he himself bears:

(c) a protected thikádár, whether holding under a written lease or a verbal agreement, shall be entitled to a renewal of his lease on its expiry, on his agreeing to farm his village at a fair and equitable thiká-jama;

- (d) in the event of any dispute arising between the proprietor and the protected thikádár as to what is a fair and equitable thiká-jama, the matter shall be referred to the Deputy Commissioner, whose decision shall, subject to revision by the Commissioner and Chief Commissioner, be final;
- (e) not more than one enhancement of the thiká-jama or, where it is so specially provided in the terms of the settlement of the village, no enhancement of the thiká-jama shall be imposed on a protected thikádár during the currency of a settlement;
- (f) all miscellaneous dues and cesses, unless specially authorized by the Chief Commissioner, shall be included in the thiká-jama payable under the lease; and
- (g) a protected thikádár shall comply with the rules made under section 124A for the management of málguzári forests.

(5) In any proceedings before a Court for the ejectment of a thikádár, gaontia or farmer, if it appears that the thikádár, gaontia or farmer has filed an application before a Revenue-officer to obtain a declaration that he is protected, or if he files such an application before the Court, the Court shall stay proceedings until the application has been disposed of in accordance with the provisions of this Act, and shall, if the application is filed before itself, forward such application to the Deputy Commissioner or Settlement-officer for disposal.

XII of 1898. (6) If any protected thikádár, gaontia or farmer is shown to have, since the commencement of the 'Central Provinces Land-revenue Act, 1898, contravened, or to be contravening, the conditions of his tenure as contained in clause (a) or clause (g) of sub-section (4), or to have grossly mismanaged the village held by him in lease, the Settlement-officer or Deputy Commissioner may, with the previous sanction of the Chief Commissioner, declare such thikádár, gaontia or farmer to have forfeited the protection previously conferred on him under this section, and such thikádár, farmer or gaontia shall from the date of such declaration cease to be protected.

(7) Nothing in this section shall affect the liability of any protected thikádár, farmer or gaontia to ejectment in execution of a decree for ejectment passed, in accordance with any law for the time being in force and not inconsistent with this Act, on the ground—

- (a) that he has failed to pay the thiká-jama legally payable by him;
- (b) that he has diverted the culturable land of the village to non-agricultural purposes, or is chargeable with some act or omission which renders him liable to be ejected.

66. When the whole of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion to the several holdings the amount with which such land is assessed under a settlement or sub-settlement.

Settlement-officer to apportion assessment over lands held in severalty:

<sup>1</sup> *Intra.*

When only part of the land comprised in a mahál is held in severalty the Settlement-officer shall apportion such amount to the part held in common and the part held in severalty, and shall further apportion to the several holdings the amount to which they are liable under the former apportionment.

Settlement-officer to redistribute land according to custom.

**67.** When by established custom the land held by each proprietor in any mahál is subject to periodical redistribution, the Settlement-officer may, in his discretion, on the application of the proprietors, make such redistribution according to such custom.

### <sup>1</sup> *Procedure in Raiyatwári Settlements.*

Assessment of raiyatwári villages.

<sup>1</sup> **67 A.** (1) The Chief Commissioner may make rules for the assessment of land held by raiyats direct from the Government.

(2) Such rules may provide for the sub-division of occupied and unoccupied land into survey-numbers, on each of which a separate assessment shall be made :

Provided that no such survey-number shall include land occupied in separate interest by more raiyats than one at the time of its formation.

(3) When the lands of a village have been divided into survey-numbers on each of which a separate assessment has been made, the village may be declared by the Chief Commissioner to be a regularly settled raiyatwári village.

(4) The assessment made on a survey-number may be either fixed or progressive or in the form of rates chargeable according to the results of each year or harvest.

Assessment to whom to be offered.

<sup>1</sup> **67 B.** (1) The assessment of each survey-number in a regularly settled raiyatwári village shall in the first place be offered to the raiyat (if any) holding the survey-number.

(2) If such raiyat refuses to accept the assessment, he may be ejected as if for non-payment of revenue, and the assessment may be offered —

(a) to any co-partner of the ejected raiyat, and, if he also refuses,

(b) to any other person.

Assessment of unoccupied survey-numbers.

<sup>1</sup> **67 C.** A survey-number formed from unoccupied land in a regularly settled raiyatwári village may be allotted by the Settlement-officer at the time of settlement or by the Deputy Commissioner during the currency of the term of settlement to any person who accepts the assessment made upon it.

Responsibility of raiyats for assessment.

<sup>1</sup> **67 D.** (1) A raiyat who has accepted the assessment of a survey-number in a regularly settled raiyatwári village, and his representatives and assigns, shall be responsible for the payment of the land-revenue assessed on such survey-number during the term of settlement, unless he or they has or

<sup>1</sup> This heading and ss. 67A to 67I were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 18, *infra*.

have relinquished the survey-number by presenting at the tahsil office a written notice of relinquishment.

(2) Such notice of relinquishment shall take effect from the first day of April next following the date of the presentation thereof.

<sup>1</sup> **67 E.** (1) The right of a Government raiyat in a survey-number held by him shall devolve as if it were land, but is not transferable except to a person who, if he survived the raiyat, would inherit his right, or to a co-sharer in such right, or, with the permission of the Deputy Commissioner, by a lease to a sub-tenant cultivating under the raiyat. Right of raiyat in- heritable, but not transferable.

(2) The right of a raiyat in a survey-number held by him shall not be sold in execution of a decree.

(3) A raiyat is not entitled to claim partition of a survey-number, but the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, partition a survey-number and apportion the assessment between the holders thereof.

(4) Nothing in this section shall affect the rights of raiyats on whom proprietary rights in survey-numbers held by them have been conferred by special orders.

<sup>1</sup> **67 F.** The Chief Commissioner may make rules—

- (a) prescribing the procedure under which unoccupied survey-numbers may be allotted to raiyats during the currency of the term of a settlement; Power to make rules for survey-numbers.
- (b) providing for the appointment in the case of survey-numbers held by two or more raiyats in co-partnership, of one of such raiyats to be primarily responsible for the payment of the land-revenue assessed on such survey-numbers;
- (c) providing, in cases in which the assessment is in the form of rates chargeable according to the results of each year or harvest, for the manner and time in and at which the amount chargeable is to be notified to the raiyat.

<sup>1</sup> **67 G.** The provisions of sections 55 and 56 shall, so far as they can be made applicable, apply to raiyatwari settlements made under this Act. Provisions of sections 55 and 56 applicable to raiyatwari settlements. Land-revenue now payable by raiyats to be deemed to be fixed under this Act

<sup>1</sup> **67 H.** The land-revenue payable at the commencement of the <sup>2</sup>Central Provinces Land-revenue Act, 1889, by raiyats holding survey-numbers in villages declared to be regularly settled raiyatwari villages, shall be deemed to have been assessed under the provisions of this Act. Land-revenue now payable by raiyats to be deemed to be fixed under this Act

<sup>1</sup> These sections were inserted by s. 18 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), *infra*.

<sup>2</sup> *Infra*.

Raiyats holding Government land not included in raiyatwari villages.

<sup>1</sup> 67I. Raiyats who hold Government land not included in a regularly settled raiyatwari village and who are not tenants within the meaning of this Act, shall be liable for the payment of such land-revenue as may be assessed in accordance with rules made under this Act on the land held by them :

Provided that such a raiyat shall not be compelled to pay revenue for land which he has vacated before the first day of April next before the commencement of the agricultural year on account of which the claim for such revenue arises.

## CHAPTER VI.

### OF CERTAIN INVESTIGATIONS BY THE SETTLEMENT-OFFICER AND THE PREPARATION OF THE RECORD-OF-RIGHTS.

Settlement-officer to ascertain proprietors. Determination and record of sir-land.

68. The Settlement-officer shall ascertain the persons who are in possession as proprietors of the land comprised in each mahál.

<sup>2</sup> 69. (1) The Settlement-officer shall ascertain and determine the extent of all the land which is held as sir-land as defined in section 4A., and which has not lost its character as sir-land under the provisions of section 45 of the

<sup>3</sup> Central Provinces Tenancy Act, 1898, and shall record the same as sir-land. XII of 1898.

(2) The Settlement-officer shall also record as sir-land--

- (a) land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof and has been continuously so cultivated for a period of not less than twelve consecutive years ; and
- (b) land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof, and having been broken up from waste-land by such proprietor or one of such proprietors, has since been continuously cultivated by him for a period of not less than six years :

Provided that no land shall be recorded as sir-land under this sub-section if the total area of sir-land within the mahál already exceeds, or will by such record be made to exceed, one-quarter of the total occupied area of the mahál :

Provided, further, that the Settlement-officer may, with the previous sanction of the Commissioner, exempt any mahál or part thereof from this limitation in respect of land falling under clause (b) of this sub-section.

<sup>1</sup> This section was inserted by s. 18 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), *infra*.

<sup>2</sup> The present s. 69 was substituted by s. 4 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), for the s. 69 substituted for the original section by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 19 ; see *infra*.

<sup>3</sup> *Infra*.

(3) When a part of such land as is referred to in sub-section (2) is excluded from the record of sîr-land under the proviso to that sub-section, the proprietor shall have the right to choose the particular fields which are to be excluded.

(4) An order or entry of the Settlement-officer recording, or omitting or refusing to record, any land as sîr-land under sub-section (1) shall be final unless and until it is reversed or modified by the decree of a Civil Court in a suit instituted under section 83 at any time after the record is attested by the Settlement-officer, or his order regarding the entry is passed, and within one year after the settlement comes into effect; and an order or entry recording, or omitting or refusing to record, any land as sîr-land under sub-section (2) shall be final unless and until it is reversed or modified on appeal or revision in accordance with the provisions of sections 22 to 26.

(5) The Settlement-officer shall, at the request of any proprietor, furnish him, free of cost, with a list of all the land which has been recorded as sîr-land under this section, and is situated within the mahâl or patti owned wholly or partly by such proprietor.

(6) All land not falling within the purview of section 4A, sub-section (1), shall be presumed, until the contrary is proved, not to be sîr-land.

*Explanation.*—For the purposes of this section the word “proprietor” shall be deemed to include an assignee of proprietary rights, but not a málík-mákbuzá.

70. The Settlement-officer shall ascertain the customs or rules by which the proprietors in each mahâl are mutually bound as to the granting of pattás the ejectment of tenants, the realization and distribution of rents and other profits, the payment of land-revenue, village-expenses and other charges, and generally as to the control and management of the mahâl; and shall decide all disputes and record all agreements regarding the matters mentioned in this section.

Settlement-officer to decide disputes among share-holders regarding management of mahâl;

71. The Settlement-officer shall determine through which of the lambardárs or sub-lambardárs the amount of revenue payable by each proprietor, sub-proprietor, or málík-mákbuzá shall be paid.

to determine through what lambardárs revenue shall be paid;

72. The Settlement-officer shall ascertain, and record for each mahâl, the status of all tenants occupying land therein, the lands respectively held by them, the conditions on which they respectively hold such lands, and the rents (if any) payable by them respectively.

to ascertain status and rents of tenants.

73. The Settlement-officer shall investigate all claims against the Government to hold land free from revenue or at less than a full assessment, or to receive the whole or part of the land-revenue assessed on land which is not free from revenue.

Inquiry into claims to hold free from revenue as against Government.

The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules determining the principles by which the Settlement-officer shall be guided in the disposal of claims coming under this section.

Power of Chief Commissioner to make rules.

74. When any land not being land which any person is entitled to hold free from revenue as against the Government is held by a proprietor,

Inquiry as to claims to hold free

from revenue  
as against  
mālguzárs.

whether himself a mālguzār or not, who claims to hold it wholly or partially free from revenue as against the other mālguzárs of the mahāl, the Settlement-officer shall decide whether the claimant is entitled to be exempted from paying the whole or any part of the revenue which would otherwise be payable in respect of such land, and, if he decides that the claimant is so entitled, shall also determine the conditions under which, and the term for which, the claimant is entitled to such exemption :

Provided that no decision under this section shall exempt any land from the payment of revenue, when the mahāl in which such land is comprised is sold for arrears of revenue.

Chief Com-  
missioner  
may make  
rules for dis-  
posal of such  
cases.

The Chief Commissioner may make rules for the guidance of Settlement-officers in dealing with cases under this section.

Time from  
which orders  
under sec-  
tions 73  
and 74 take  
effect.

**75.** When the Settlement-officer decides, under section 73 or section 74, that land which has been held free from revenue, or at less than a full assessment, is liable to pay revenue, or to pay the same at enhanced rates, such decision shall take effect from the first day of the agricultural year next ensuing ; unless the Chief Commissioner directs that the amount payable in respect of such land on account of the revenue accruing due within any one or more of the last preceding twelve years shall be realized.

Settlement-  
officer to  
decide what  
village-cesses  
are leviable ;

**76.** The Settlement-officer shall determine and record the village-cesses, if any, which are leviable in accordance with village-custom, and the persons by and from whom, and the rates at which, they are leviable ; and such cesses shall, if sanctioned by the Chief Commissioner, be leviable accordingly.

to determine  
certain  
disputes.

**77.** The Settlement-officer may determine disputes regarding any of the following matters (namely) :—

- (a) the right of any lambardār, mukaddam,<sup>1</sup> \* village-watchman or other village-servant to any customary dues or other remuneration, and his liability to render any customary service in return for such dues or remuneration ;
- (b) the rights of persons resident in the village, or holding lands comprised in the mahāl, in or to the common land of the mahāl and its produce, and the village site ;
- (c) any customs relating to irrigation or to rights-of-way and other easements ;
- (d) any other rights and customs which the Chief Commissioner directs to be recorded in the administration-paper.

Procedure in  
cases under  
sections 68,

**78.** If a dispute arises regarding any matter mentioned or referred to in sections 68, 69, <sup>2</sup>[sub-section (1)], 70, 72 and 77, clauses (b), (c) and (d),

<sup>1</sup>The word " patwāri " was omitted by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907), *infra*.

<sup>2</sup>This word and figure in square brackets were inserted by s. 5 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), *infra*.

the Settlement-officer shall decide it summarily after making such inquiry as he thinks fit, and shall not be bound to hear any party to such dispute or to receive any evidence tendered by any such party; but in the case of every such dispute he shall record a proceeding stating the nature of such dispute, his decision thereon, the grounds of such decision and such other particulars as he thinks fit.

**79.** The Settlement-officer shall prepare for every mahál, or, if he thinks fit, for any group of neighbouring maháls, a record-of-right, and shall include in it—

- (a) the results of the inquiries made under this Chapter in respect of such mahál or group; and
- (b) any other matters which the Chief Commissioner may, by rules in this behalf, direct to be entered in such paper.

**80.** The Chief Commissioner may make rules prescribing the language in which the record-of-rights shall be drawn up, the form of the papers of which it shall consist, and the manner in which such papers shall be signed and attested by the Settlement-officer and the parties interested in the matters to which they refer.

**81.** When the Settlement-officer has completed a record-of-rights in manner hereinbefore prescribed, he shall, subject to any order issued by the Chief Commissioner in this behalf, make it over to the Deputy Commissioner for custody.

**82.** When the record-of-rights is duly made and attested, all entries therein shall be presumed to be correct until the contrary is shown.

**83.** Any person deeming himself aggrieved by any decision under section 78, or by any decision of the Chief Settlement-officer in appeal therefrom, or by any entry made in the record-of-rights as to any matter referred to in that section, may institute a suit in the Civil Court to have such decision set aside or such entry cancelled or amended:

Provided as follows:—

when any suit under this section is instituted for the cancellation or amendment of an entry, the Government, if it so desires, and all persons interested in the entry, shall be made parties to the suit:

no persons by whom the record-of-rights was signed, and no persons claiming through or under them, shall, without the previous sanction of the Chief Commissioner, institute any suit with a view to modify or set aside any entry relating to any matter mentioned in section 70 or section 77, clause (b), (c) or (d).

**84.** After an assessment has been confirmed by the Governor General in Council, the Chief Commissioner shall not exercise, in respect of any entry of the descriptions referred to in section 83 duly made in a record-of-rights prepared in connection with such assessment and duly attested, the power of

69, 70, 72  
and 77,  
clauses (b)  
(c) and (d).

Record-of-  
rights.

Chief Com-  
missioner  
may make  
rules regard-  
ing record-  
of-rights.

Record-of  
rights to be  
made over to  
Deputy Com-  
missioner.

Effect of  
entries in  
record-of-  
rights.

Suits to  
contest cer-  
tain settle-  
ment de-  
cisions or  
entries.

Revision of  
record-of-  
rights by  
Chief Com-  
missioner.



revision conferred by sections 25 and 31, unless it is proved that such entry was made inadvertently.

Proceedings regarding lands the property of Government.

**85.** In respect of lands declared to be the property of Government, the Settlement-officer shall, instead of proceeding as hereinbefore provided, conduct such operations, and prepare such record, as the Chief Commissioner may direct.

## CHAPTER VII.

### OF SETTLEMENTS MADE BEFORE THIS ACT COMES INTO FORCE.

Former settlements deemed to have been made under this Act.

**86.** Settlements made before this Act comes into force shall be deemed, so far as may be, to have been made hereunder; and the provisions of this Act in regard to proceedings taken and records prepared by Settlement-officers in the making of settlements hereunder shall apply in like manner to proceedings taken and records prepared before this Act comes into force.

Effect of awards of proprietary rights at such settlements.

**87.** When a Settlement-officer or Settlement Court has, at any settlement made before this Act comes into force, made an award of proprietary rights in any land, all claims, which after consideration by such officer or Court may have been expressly decided by him or it to be invalid, or inferior to the claims of the persons in whose favour the award was made, shall be barred both as against Government and as against the persons last-mentioned; and no suit shall lie for the enforcement of such claims in any Civil Court.

The award at any such settlement of proprietary rights in land to a widow shall be deemed to confer on her those rights only which, in accordance with the personal law to which she is subject, she would enjoy in land inherited by her from her husband.

When suits for proprietary rights will lie in Civil Courts.

**88.** Any person whose claim to proprietary rights in any land was not expressly decided by such officer or Court may sue in a Civil Court to establish such claim; and, if he can prove that, when proprietary rights in such land were awarded by such officer or Court to other persons, he was entitled to interests therein of the same nature as those upon consideration of which the award was made, the Civil Court may declare him entitled to a proprietary right of such nature and extent in the land as it may deem just.

Chief Commissioner may allot waste-land to málik-makbuzás entitled thereto.

**89.** When at any settlement made before this Act comes into force málik-makbuzás have been declared entitled to a portion of the waste-lands comprised in any mahál, the Chief Commissioner may, notwithstanding anything contained in the record of such settlement, prescribe the extent of such portion and the mode in which the same shall be assigned to them; and may determine the nature and extent of their interests therein and the conditions on which they may hold it.

## PART IV.

## OF REVENUE-ADMINISTRATION.

## CHAPTER VIII.

## OF THE COLLECTION OF LAND-REVENUE.

**90.** Notwithstanding anything contained in the record-of-rights of any village, the Chief Commissioner may fix the number and amount of the instalments, and the times, places and manner, at and in which land-revenue, whether payable direct to the Government or not, shall be paid.

Power of Chief Commissioner to regulate payment of land-revenue.

Until the Chief Commissioner otherwise directs, all such payments shall be made on the dates, in the instalments, in the manner and at the places on, in and at which they are payable when this Act comes into force.

**91.** When any sum payable under a settlement or sub-settlement<sup>1</sup> \* \* \* \* "Arrear" is not paid within the time at which it is payable under section 90, such sum shall be deemed to be an arrear, and all the persons with whom such settlement or sub-settlement<sup>1</sup> \* \* \* \* was made, their representatives and assigns, shall thereupon become jointly and severally liable for it, and shall be deemed to be defaulters within the meaning of this Act.

"Defaulters."

<sup>2</sup> *Explanation.*—The term "assigns" in this section includes a mortgagee in possession and a thikadár.

**91A.** Without the previous consent of the Deputy Commissioner or of such officer, not being below the rank of Tahsildár, as he may appoint in this behalf, the rents and profits of a mahál or málik-makbuzá holding and the produce of a survey-number shall not be liable to be attached or taken in execution of a decree or order of any Court until the land-revenue chargeable against such rents, profits or produce, and any arrear due in respect of the mahál, holding or survey-number, have been paid.

Avoidance of attachments and executions which forestall land-revenue.

*Realization of Revenue from Málguzárs.*

**92.** A statement of account, authenticated by the signature of the Tahsildár, shall, for the purposes of this Chapter, be conclusive evidence of the existence of any arrear payable direct to the Government, of its amount, and of the persons who in respect thereof are defaulters.

Tahsildár's statement of account to be conclusive evidence of arrear.

**93.** The Deputy Commissioner or any officer empowered by him in this behalf may, if he thinks fit, before any of the processes hereinafter referred

Notice of demand.

<sup>1</sup> The words "or otherwise under an assessment made in accordance with this Act," and the words "or such assessment," which were inserted in s. 91 by s. 20 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), are omitted, as s. 20 has since been repealed by s. 13 of the Central Provinces Land-revenue Act, 1898 (XII of 1898); see *infra*.

<sup>2</sup> This *Explanation* was inserted by s. 6 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), *infra*.

<sup>3</sup> Section 91A was inserted by s. 7 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), *infra*.

to are issued for the recovery of such an arrear, cause a notice of demand to be served on any of the defaulters.

Processes for  
recovery of  
arrears

**94.** An arrear payable directly to Government may be recovered by any one or more of the following processes :—

- (a) by arresting the defaulter and imprisoning him in the civil jail ;
- (b) by attaching and selling his moveable property ;
- (c) by attaching the mahál in respect of which the arrear has accrued or the share or land of any málguzár who has not paid the portion of the revenue which, as between him and the other málguzárs, is payable by him, and taking the same mahál, share or land under direct management ;
- (d) by transferring the share or land of any málguzár who has not paid such portion to any málguzár who has paid the same, or, if every such málguzár declines to accept such share or land, to any person having a mortgage or charge upon the same, and who consents to accept it ;
- (e) by annulling the settlement of the mahál in respect of which the arrear has accrued, and taking such mahál under direct management or farming the same ;
- (f) by selling such mahál, or the share or land of any málguzár who has not paid the portion of the revenue aforesaid ;
- (g) by selling immoveable property belonging to the defaulter other than the land in respect of which the arrear has accrued ;
- <sup>1</sup> (h) in the case of a raiyat who has accepted the assessment of a survey-number, by ejecting him from his holding :

Provided as follows :—

- (1) the process mentioned in clause (a) shall not be issued against any female, minor, lunatic or idiot ;
- (2) the processes mentioned in clauses (d), (e), (f) and (g) shall not be enforced without the previous sanction of the Chief Commissioner ;
- (3) no land shall be sold, and the settlement of no land shall be annulled, on account of an arrear accruing in respect of land whilst it is under attachment, or under charge of the Superintendent of Government Wards, or held under direct management, or let in farm in accordance with any of the provisions of this Act.

The processes specified in clauses (a), (b) and (g) may be enforced either in the district in which the default has been made, or in any other district.

Arrest and  
imprison-  
ment for

**95.** The process mentioned in section 94, clause (a), may be executed by issuing a warrant directing the officer named therein, if the defaulter fails

<sup>1</sup> Clause (h) was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 21 : *ibid.*

to pay the arrear by a date to be fixed is the warrant, to bring him to the recovery of arrear.  
tahsíl.

If, when the defaulter arrives at the tahsíl, the arrear is still unpaid, the Tahsildár may order him to be taken before the Deputy Commissioner, or may keep him under personal restraint at the tahsíl for a period of not exceeding ten days, unless within such period the arrear is paid, and may then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

**96.** If the arrear is not paid when the defaulter arrives before the Deputy Commissioner, the Deputy Commissioner may issue an order to the officer Imprisonment of defaulter in civil jail.  
in charge of the civil jail of the district, directing him to confine the defaulter in such jail, for such period, not exceeding three months from the date of the order, as the Deputy Commissioner may think fit unless within such period the arrear is paid.

**97.** Attachments and sales of moveable property made under this Chapter shall be conducted as nearly as may be according to the law for the time being in force for the attachment and sale of moveable property under the decree of a Civil Court. Procedure in sales of moveable property.

**98.** After causing any attachment to be made under section 94, clause (c), the Deputy Commissioner shall issue a proclamation declaring the attachment of malá, share or land to be in force, and shall take the attached malá, share or land under his own management, or place it under the management of any agent whom he may appoint for the purpose. Management of malá, share or land attached under section 94 (c).

**99.** During the continuance of an attachment under section 98, the defaulter shall be excluded from possession of the land attached, and the Deputy Commissioner or the agent appointed by him shall have all their rights to manage the land and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as málguzárs or proprietors to any subordinate proprietors or tenants of such land. Effect of attachment.

**100.** The surplus profits of such land, after defraying the cost of attachment and management, shall be applied, first, to the payment of any revenue becoming due in respect of such land during the attachment, and next, to discharging the arrear for the recovery of which the attachment was made. Profits of land how applied.

**101.** The attachment shall continue until the arrear is paid or realized from the profits of the land attached, or the Deputy Commissioner reinstates the defaulters in possession : Attachment when to cease.

Provided that no attachment shall continue beyond five years from the first day of the agricultural year next following its commencement.

**102.** When it is proposed to execute the process mentioned in section 94, clause (d), the persons to whom the share or land in respect of which the arrear is due is to be transferred shall be required to pay such arrear, or to secure its payment to the satisfaction of the Deputy Commissioner. Transfer under section 94 (d).

No such transfer shall be made for a term exceeding fifteen years from the first day of the agricultural year next after the date on which it is sanctioned by the Chief Commissioner.

Joint and several liability not affected by transfer.

No proceedings taken under this section shall affect the joint and several liability of the *mālguzārs* of the *mahāl* for arrears accruing in respect of such *mahāl* subsequently to the transfer of the share or land, except that, as regards all such arrears, the transferee shall stand in the place of the *mālguzār* whose share or land is transferred.

Procedure after receipt of sanction to annulment of settlement.

**103.** When the Chief Commissioner sanctions the annulment of the settlement of any *mahāl*, the Deputy Commissioner shall proclaim such annulment, and may then exclude the defaulters from the possession of the *mahāl*, and either manage the *mahāl* or any portion thereof himself or through an agent, or let the *mahāl* or any portion thereof in farm for such term and on such conditions as the Chief Commissioner directs :

Provided that no management or farm under this section shall continue for a longer period than fifteen years from the first day of the agricultural year next after the proclamation of annulment of settlement.

After the date of such proclamation no liabilities shall accrue under the settlement so annulled ; but such annulment shall not affect anything done or any liability incurred under the settlement before such date.

Case of a portion of a *mahāl* being managed or farmed. Settlement on expiry of management or farm.

**104.** When a portion only of the *mahāl* is managed or let in farm under section 103, the rest of such *mahāl* shall be separately re-settled with the proprietors thereof for the remainder of the term of settlement.

**105.** As soon as the management or farm of any *mahāl* or portion thereof has come to an end, the Deputy Commissioner shall offer to the persons entitled under section 49 to an offer of assessment a new assessment of the land, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the *mahāl* ; and, if such offer is refused, may, with the previous sanction of the Chief Commissioner, let such *mahāl* or portion in farm for the remainder of the term of settlement to some other person, or manage it himself or through an agent for such period.

Effect of annulment of settlement.

**106.** No leases, liens or other incumbrances created by the defaulters, or by any person through or under whom they claim, of or upon any land managed or let in farm under this Act, shall, during such management or farm be binding upon the Deputy Commissioner or Settlement-officer, his agent or lessee.

Saving of rights in *sir-land*.

**107.** No defaulter shall be deprived of the possession of his *sir-land* in the execution of any of the processes mentioned in section 94, clauses (c), (d) and (e) ; but every such defaulter shall, while such process is being enforced, be entitled to retain possession of, and liable to pay rent for, such land as if he were an absolute occupany-tenant, at such rent as may be fixed by the Deputy Commissioner.

Nature of estate taken by purchaser

**108.** Unless the Chief Commissioner in sanctioning the sale otherwise directs, a purchaser of any land sold for arrears of revenue due in respect

thereof acquires the full proprietorship or superior or inferior proprietorship of it, as the case may be, free of all leases, liens and other incumbrances; and all grants or contracts previously made by any person other than the purchaser in respect of such land shall become void as against such purchaser.

of land sold  
for arrears  
due thereon.

Nothing in this section shall—

- (a) affect the rights of any proprietor, superior or inferior to the defaulters, or of any *málik-mákbuzá* or occupancy-tenant, who does not derive his rights as such proprietor, *málik-mákbuzá* or tenant from express contract with such defaulters, or any person through whom they claim; or
- (b) apply to lands held under leases at fair rents for the erection thereon of dwelling-houses, places of worship or manufactories, or for working mines, minerals, coals and quarries, or for laying out and maintaining gardens and burial-grounds, or for constructing tanks and canals, so long as the lands continue to be used for the purposes specified in such leases respectively; or
- (c) deprive any defaulter whose property is sold of the rights in respect to his *sír-land* conferred by any law for the time being in force.

The Chief Commissioner may, from time to time, determine what rents shall be deemed to be fair rents within the meaning of this section.

**109.** When immovable property is sold under this Act, the rules prescribed in sections 287, 288, 293 and 306 to 316, both inclusive, of the Code of Civil Procedure<sup>1</sup> shall be followed, except in the following particulars (that is to say):—

Rules for  
sale of  
immovable  
property.

XIV of 1882.

- (a) the defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and on such payment the sale shall be stayed;
- (b) the proclamation directed by the said section 287 shall, when the sale is under clause (f), section 94 of this Act, declare that, subject to the provisions of section 108, the full proprietorship, or superior or inferior proprietorship, as the case may be, is to be sold free from all leases, liens and other incumbrances, and the certificate mentioned in section 316 of the said Code shall contain a similar statement;
- (c) the last two clauses of the said section 287 shall not apply;
- (d) an appeal from any order under section 312 of the said Code for confirming or setting aside the sale shall lie to the Commissioner of the Division, and an appeal from the Commissioner's order on such appeal shall lie to the Chief Commissioner;
- (e) the Deputy Commissioner may, from time to time, postpone any sale which he has proclaimed, reporting such postponement to the Commissioner of the Division;

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), Genl. Acts, Vol. VI.

(f) section 309 of the said Code<sup>1</sup> shall be read as if after the words "for such payment" the words "and every sale of such property made after a postponement" were added;

(g) section 313 of the said Code shall not apply to sales under section 94, clause (f), of this Act;

(h) section 316 of the said Code shall be read as if the words "The Deputy Commissioner shall place the purchaser in possession of the lands which he has purchased" were added thereto.

Pre-emption  
at sales.

**110.** In the course of a sale under section 94, clause (f), if the property is knocked down to a stranger, the following persons may claim to take it at the sum last bid in the following order:—

(a) any *mālguzār* who has paid the revenue which as between him and the other *mālguzārs* is payable by him;

(b) if the superior proprietorship is sold, the inferior proprietor;

(c) if the inferior proprietorship is sold, the superior proprietor;

Provided that such claim is made before the officer conducting the sale closes the sitting at which the sale is held, and that the claimant undertakes to fulfil all the conditions of the sale binding on the purchaser.

Application  
of proceeds  
of sale of im-  
moveable  
property.

**111.** The proceeds of every sale in execution of any process mentioned in section 94 shall be applied first, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale; secondly, to the payment of any other arrear due to Government by the defaulter; and the surplus, if any, shall then be payable to him, or, where there are more defaulters than any, to such defaulters according to their respective shares in the property sold.

Costs re-  
coverable as  
part of  
arrear.

**112.** The costs of serving a notice of demand under section 93 and of enforcing any process mentioned in section 94 shall be recoverable as part of the arrear in respect of which the notice was served and the process was issued.

Matters as to  
which Chief  
Commissioner  
may make  
rules.

**113.** The Chief Commissioner may make rules—

(a) for the guidance of Revenue-officers in issuing notices of demand under section 93 and executing the processes mentioned in section 94;

(b) defining the classes of officers by whom the processes mentioned in section 94, clauses (a) and (b), may be enforced;

(c) prescribing the agency by which any of the processes issued under section 94 shall be executed.

Remedies  
open to per-  
son denying  
that sum  
demanded  
as an arrear  
is due.

**114.** Notwithstanding anything contained in section 92, when proceedings are taken under this Act for the recovery of an arrear, the person against whom such proceedings are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the time of payment and

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), Genl. Acts, Vol. VI.

duly signed by him or by his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

*[Realization of Revenue by Málguzárs.*

**115.** In a suit for the recovery of an arrear of revenue not being revenue payable directly to Government, and in a suit brought by a lambardár to recover the amount of any revenue payable to Government through him, the defendant shall not, except with the permission of the Court,—

*Limitation of right to set off, etc. in suit for arrears.*

- (a) set off against the plaintiff's demand any sum of money recoverable by him from the plaintiff; or
- (b) claim credit for any payment purporting to have been made on account when such payment was made before the date on which the amount thereof became due.

**116.** Any lambardár or sub-lambardár entitled to recover an arrear, of any málguzár to whom such an arrear is due under a sub-settlement, may, before instituting a suit for the recovery thereof, apply to the Deputy Commissioner to recover such arrear on his behalf as if it were an arrear of revenue payable directly to Government.

*Recovery of arrear through Deputy Commissioner instead of by suit.*

The Deputy Commissioner may, if he thinks fit, comply with such application, but shall, before compliance therewith, give to the persons, who would be defendants if a suit were instituted for the recovery of such arrear, opportunity to show cause against the order which he proposes to make.

The Deputy Commissioner shall not be made a defendant to any suit instituted under section 114 in respect of an arrear as to which an order has been made under this section.

No person on whose account the Deputy Commissioner proceeds under this section to recover an arrear shall thereby be relieved of his responsibility for such arrear.

XV of 1877

**117.** Nothing in the Indian Limitation Act, 1877,<sup>1</sup> and no agreement made after this Act comes into force, shall bar the right of the málguzárs of any mahál assessed with land-revenue to demand revenue in respect of any land which, having been taken into account in such assessment, has been held by any person without payment of revenue.

*Saving of right of málguzár to demand revenue of land assessed to revenue and held free.*

The Chief Commissioner may, in his discretion, exempt any case from the operation of this section.

**118.** No suit for the recovery of revenue payable under a settlement or sub-settlement shall be instituted after three years reckoned from the date on which such revenue becomes payable.

*Limitation in suits for revenue.*

In other respects the limitation of such suits shall be governed by the Indian Limitation Act, 1877.<sup>1</sup>

XV of 1877.

<sup>1</sup> See now the Indian Limitation Act, 1908 (IX of 1908), Genl. Acts, Vol. VI.



*Interest on Arrears.*Interest on  
arrears.

**119.** Interest shall not be charged on an arrear of revenue unless the Chief Commissioner, by general or special order, so directs :

Provided that the Court may award interest at such rate as it thinks fit on sums payable under a sub-settlement.

## CHAPTER IX.

## OF REVENUE AND VILLAGE RECORDS.

Correction  
of record-of-  
rights.

**120.** Any entry in the record-of-rights may, after such record has been made over to the Deputy Commissioner, be corrected by the Deputy Commissioner on the application of any person interested, or of his own motion. Such correction may be made on one or more of the following grounds, and on no others :—

- (a) that all persons interested in such entry wish to have it corrected ;  
or
- (b) that by a decree in a suit brought under section 83 it has been declared to be erroneous ; or
- (c) that, being founded on a decree or order of a Civil Court or on the order of a Revenue or Settlement-officer, it is not in accordance with such decree or order ; or
- (d) that, being founded on such decree or order, the order or decision has subsequently been modified on appeal or review, or has been revised by the Chief Commissioner.

Revision of  
record in  
accordance  
with  
provision  
therein  
contained.  
Powers of  
Deputy  
Commis-  
sioner  
as to  
correction  
of entry  
or revision  
of record.  
Power to  
direct that  
rule or  
custom  
entered  
in record-  
of-rights  
shall be  
enforced by  
Government.

**121.** The Deputy Commissioner may revise a record-of-rights when such revision is provided for in such record.

**122.** When the Deputy Commissioner takes proceedings for the correction of any entry in the record-of-rights or for the revision of such record-of-rights, he shall exercise, for the purpose of such correction or revision, all the powers which the Chief Settlement-officer might have exercised if the proceedings had been taken whilst the settlement was in progress.

**123.** The Chief Commissioner may, in his discretion, by notification in the official Gazette, direct that any specified rule, custom or condition duly entered in the record-of-rights of any specified village shall be enforced by the Government.

If any of the persons with whom a settlement or sub-settlement has been made violate or neglect any rule, custom or condition with respect to which the Chief Commissioner has made a direction under this section, the Deputy Commissioner may, if no penalty is provided by any law for the time being in force for such violation or neglect, recover from such person a penalty not exceeding two hundred rupees.

Punishment  
of violation  
of such  
rule or  
custom.

**124.** Any person against whom proceedings have been taken under section 123 may institute a suit against Government to set aside such proceedings on the ground that no rule, custom or condition was, in fact, violated or neglected. If the Court finds that no rule, custom or condition has been violated or neglected, it may by its order annul such proceedings and direct that any penalty paid by the plaintiff be refunded; and may also award to him such costs as he has necessarily incurred in the proceedings, and such further sum as compensation as it thinks fit.

Suit to  
set aside  
proceedings  
under  
section 123.

<sup>1</sup> **124A.** (1) When under any record-of-rights or sanad or any agreement with the Government the proprietor or the superior or inferior proprietor of any forest-land included within, or forming, a mahál is bound to manage such forest-land in accordance with rules or instructions prescribed by any Government officer, the Chief Commissioner may make rules regarding the control and management of such forest-land.

Powers to  
control  
manage-  
ment of  
forests.

(2) If the proprietor, or the superior or inferior proprietor, as the case may be, fails to observe the rules so made, the Deputy Commissioner may issue a notice calling on him to show cause, within a reasonable time to be specified in the notice, why he should not be excluded from the possession of the forest-land.

(3) If no sufficient cause is shown, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, exclude such proprietor from the possession of the forest-land, and assume the direct management thereof for a term to be fixed by the Chief Commissioner.

(4) The costs of management shall be borne by the proprietor, or by the superior and inferior proprietors in such proportions as the Chief Commissioner may direct with reference to the amount of their respective interests in the forest or mahál, and shall be realizable as land-revenue.

(5) The profits of such forest-land while under direct management shall be paid to the proprietor, or to the superior and inferior proprietors in the proportions in which the costs of management are borne by them.

(6) No leases, liens, incumbrances or contracts created or made by the proprietor or by any person through or under whom he claims, of, upon or with respect to the forest-land held under direct management, shall be binding upon the Deputy Commissioner during such management.

<sup>1</sup> Section 124A was inserted by s. 22 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), *infra*.

(7) The Deputy Commissioner may confiscate any timber or other forest-produce cut or removed in contravention of the rules made under sub-section (1).

(8) On the expiration of the period fixed for the direct management, the forest-land shall be restored to the proprietor, or superior or inferior proprietor, as the case may be.

Powers of Chief Commissioner as to registration of changes after preparation of record-of-rights.

**125.** The Chief Commissioner may—

(a) direct that the mukaddam of each village shall, for the purpose of showing the changes occurring therein <sup>1</sup>[from time to time], prepare or, where there is a patwari, cause to be prepared, and furnish, annually for such village, papers in such form, at such time, containing such particulars, and attested in such manner as the Chief Commissioner may, from time to time, prescribe ;

(b) lay down the procedure to be followed in order to ascertain that a change has occurred in the village, and the nature of such change.

All changes referred to in this section shall be recorded in such registers as the Chief Commissioner appoints, and not in the record-of-rights, and the Chief Commissioner may direct that, before any specified changes are recorded, the order of a specified Revenue-officer shall be obtained in this behalf.

Possession of proprietary rights to be notified.

**126.** All persons lawfully entering into possession of proprietary rights and interests in any land shall, within a reasonable time, give notice of such entry to the Tahsildar of the tahsil in which such land is situated.

If any question arises whether any right or interest is a proprietary right or interest within the meaning of this section, the decision thereof by the Chief Commissioner shall be final.

Notice to be given by guardian in case of minority or idiocy. Fine for neglect to give notice of possession.

If the person so entering is a minor, lunatic or idiot, the guardian or other person who has charge of his property shall give the notice required by this section.

**127.** Any person neglecting to give the notice required by section 126 shall be liable, at the discretion of the Deputy Commissioner or Assistant Commissioner, to fine which may extend to fifty rupees for each day during which such neglect continues.

Obligation to aid in preparation of village-papers.

**128.** All persons being in possession of proprietary rights in land shall, on being so required by the Deputy Commissioner, prepare, or cause to be prepared, such papers, and furnish such information, as may be required for the preparation of the village-papers prescribed under section 125.

Fees for recording changes ;

**129.** The Chief Commissioner may direct that fees shall be leviable when changes are recorded under the last clause of section 125, and may fix the amount of such fees.

from whom leviable.

All fees so leviable shall be levied from the person in whose favour the change is made.

<sup>1</sup> These words in square brackets were substituted for the words "subsequently to the preparation of the record-of-rights" by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 23, *infra*.

**130.** The Deputy Commissioner shall in each year make inquiry regarding all cases in which land has been granted by Government, conditionally or for a time, free, wholly or in part, from the payment of revenue.

Annual inquiry regarding land held free from revenue.

If it appears to the Deputy Commissioner that the conditions of any grant have been broken by the grantee, he shall report the case through the Commissioner of the division for the orders of the Chief Commissioner, who may direct that the land be assessed, or may pass such other order as he thinks fit.

Procedure on breach of conditions of grant.

If it appears to the Deputy Commissioner that the term of any such grant has expired, or (when the grant is for a life or lives) if the person last entitled to hold the land comprised in the grant, free from revenue, or at less than full revenue-rates, has died, he shall assess the same, and shall report his proceedings through the Commissioner of the division for the sanction of the Chief Commissioner.

Procedure on expiry of term of grant.

**131.** All records kept under this Act shall be open to public inspection at such times, and on such conditions as to fees or otherwise, as the Chief Commissioner from time to time directs.

Inspection of revenue-records.

## CHAPTER X.

### OF CERTAIN ADDITIONAL POWERS AND FUNCTIONS OF REVENUE-OFFICERS.

**132.** The Deputy Commissioner shall, when a settlement is not in progress, exercise the powers conferred by this Act on Settlement-officers for the following purposes :—

Purposes for which when settlement is not in progress, Deputy Commissioner shall exercise Settlement-officers' powers.

- (a) causing boundary-marks to be erected or repaired, and recovering the cost of such erection and repair ;
- (b) assessing land-revenue on lands which are liable to assessment, but have not been assessed ;
- (c) declaring any local area to be a mahál ;
- (d) settling lands from which the proprietors were excluded at settlement and to which they have been or are about to be re-admitted ;
- (e) settling maháls in respect of which an application has been made under the third proviso to section 56 ;
- (f) dealing with claims to hold land wholly or partially free from revenue as against the málguzárs ;
- (g) assessing lands gained by alluvion ;
- (h) ascertaining and recording village-cesses which are levied when this Act comes into force, but have not been recorded at the settlement ;

- <sup>1</sup> (i) inquiring into the claims of thikádárs, gaontias or farmers, declaring them to be protected for the purposes of section 65A. and, generally, carrying out the provisions of that section ; and
- <sup>1</sup> (j) declaring, either on his own motion or on a reference made by a Court or Revenue-officer, land to be sîr-land under the provisions of section 69, sub-section (2), clause (b), and the provisos thereto.

Purposes for which officers may be invested with Settlement-officers' powers.

**133.** The Chief Commissioner may, during the currency of a settlement, invest any officer with the powers conferred on a Settlement-officer by sections 40, 41 and 42 ; or,

with the sanction of the Governor General in Council, with any other of the powers which are by this Act conferred on a Settlement-officer ; but not so as to enable him to enhance the amount of an assessment in force under section 56.

Cognizance of, and penalty for, offence of injuring boundary-marks

<sup>\*</sup> **134.** Any person wilfully erasing, removing or damaging a boundary-mark may be ordered by the Deputy Commissioner or by a Tahsildâr or Náib Tahsildâr empowered by the Chief Commissioner in this behalf to pay to the officer making the order, in addition to any fine to which such person would be liable under section 434 of the <sup>2</sup>Indian Penal Code, such sum, not exceeding fifty rupees, as may, in the opinion of such officer, be necessary to defray the expense of restoring the same, and of rewarding the person (if any) who gave information of such erasure, removal or damage. XLV of 1860

Procedure when person injuring cannot be found.

**135.** Whenever the person erasing, removing or damaging such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been ordered to pay, the mark shall be re-erected or repaired at the cost of the proprietors, mortgagees or farmers <sup>2</sup>[or, in the case of regularly settled raiyatwâri villages, of the raiyâts] of such one or more of the adjoining lands as the Deputy Commissioner thinks fit.

**136.** [*Partition of a mahâl into two mahâls.*] *Rep., Act XVI of 1889, s. 26.*

#### CHAPTER XA.

##### PARTITION.

##### *Perfect and Imperfect Partition.*

Perfect and imperfect partition.

**136.** (I) Partition is either perfect or imperfect.

<sup>1</sup> <sup>\*</sup> Clauses (i) and (j) were substituted by s. 8 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), for the cl. (i) which was added by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 24, *see infra*.

<sup>2</sup> General Acts, Vol. I.

<sup>3</sup> These words in square brackets were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 25, *infra*.

<sup>4</sup> Chapter XA was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 26, *infra*.

(2) Perfect partition means the division of a mahál into two or more maháls.

(3) Imperfect partition means the division of a mahál into two or more parts jointly responsible for the revenue assessed on the whole mahál.

**136A.** Any recorded co-sharer of a mahál and any person in whose favour a decree has been passed awarding to him a proprietary interest in a mahál, whether such interest consists of a fractional share in the whole mahál or a part of the mahál or of specific lands, is entitled to claim at any time imperfect partition of his share. Persons entitled to imperfect partition.

**136B.** Any recorded co-sharer in a mahál, not being a mahál—

(a) in the Sambalpúr District, or

(b) held by superior and inferior proprietors and which the Chief Commissioner by rule declares to be incapable of perfect partition.

Persons entitled to perfect partition.

whose share, saving such part of it as may be impartible, has been completely separated from the rest of the mahál and is held by him in severalty, is entitled to claim perfect partition of his share at the time of settlement of such mahál.

**136C.** No Civil Court shall entertain any suit or application for the imperfect or perfect partition of a mahál.

Jurisdiction of Civil Court barred as to partition.

#### *Imperfect Partition.*

**136D.** (1) Applications for imperfect partition shall be made in writing to the Deputy Commissioner of the district in which the mahál is situate.

Applications for imperfect partition to be made to Deputy Commissioner.

(2) If the mahál is situate in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner may direct.

**136E.** (1) The Deputy Commissioner on receiving an application for imperfect partition shall, if the application be in order, and not open to objection on the face of it, publish a notification of the same at his office and at some conspicuous place on the mahál to which the application relates, and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection either in person or by a duly authorized agent on a day to be specified in the notice, not being less than thirty or more than sixty days from the date on which such notice was issued.

Procedure on receipt of application.

(2) Where from any cause notice cannot be personally served on any co-sharer, the notification shall be deemed sufficient notice under this section.

**136F.** If on or before the day specified any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner on a consideration of such objection is of opinion that there is good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Objection to partition.

Objection  
raising  
question of  
title.

**136G.** (1) If the objection raises any question of title or of proprietary right which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court, or may proceed to inquire into the merits of the objection.

(2) In the latter case the Deputy Commissioner, after making the necessary inquiry and taking such evidence as may be adduced, shall record a judgment declaring the nature and extent of the interests of the party or parties applying for the partition, and of any other party or parties who may be affected thereby.

(3) The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the <sup>1</sup>Code of Civil Procedure for the trial of original suits, and he may, with the consent of the parties, refer any question arising in such case to arbitration, and the provisions of Chapter XXXVII of the same Code<sup>1</sup> relative to arbitration shall apply to such references.

Effect of  
Deputy  
Commis-  
sioner's  
orders in  
such cases  
and appeals  
therefrom.

**136H.** (1) All decrees and orders passed by the Deputy Commissioner under the last foregoing section deciding the rights of parties shall be held to be decrees and orders of a Court of Civil Judicature, and shall be open to appeal as if passed by the Court of the Deputy Commissioner acting as a Court of Civil Judicature of first instance under the Central Provinces Civil Courts Act, 1885.<sup>2</sup>

(2) Upon such appeal being made, the Court of appeal may issue a precept to the Deputy Commissioner directing him to stay the partition pending the decision of the appeal.

Second  
appeal in  
such cases.

**136I.** From any decree or order passed under the last foregoing section by a Commissioner sitting as a Court of appeal, a second appeal shall, where a second appeal is by law allowed, lie to the Court of the Judicial Commissioner under the law for the time being in force relating to second appeals to that Court.

Option to  
parties  
to make  
partition  
themselves  
or appoint  
arbitrators.

**136J.** When it has been decided to make a partition under this Chapter, the Deputy Commissioner may give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose, or he shall make the partition himself.

Proceeding  
to be  
recorded  
by the  
Deputy  
Commis-  
sioner  
before  
making  
partition.

**136K.** Before commencing to make the partition, the Deputy Commissioner shall record a proceeding specifying the lands held in severalty, if any, and the land held in common, and laying down the principles to be followed in making the partition, with particulars of the method on which such principles are to be applied.

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), Genl. Acts, Vol. VI.

<sup>2</sup> Act XVI of 1885 has been repealed by Central Provinces Courts Act, 1904 (II of 1904), Central Provinces Code.

**136L.** (1) The pattí of each sharer shall be made as compact as possible: Each pattí to be made as compact as possible.

Provided that so far as may be compatible with fairness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

(2) No partition shall be disallowed solely on the ground of incompat-ness.

**136M.** (1) If in making the partition it be necessary to include in any pattí the land occupied by a dwelling-house or other building in the posses- Rule when house of one sharer is included in the pattí of another. sion of another co-sharer, such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose pattí it may fall.

(2) The limits of such land and the rent to be paid for it shall be fixed by the Deputy Commissioner.

**136N.** (1) No sir-land belonging to any co-sharer shall be included in the pattí assigned on partition to another co-sharer, unless with the consent of the co-sharer who cultivates it, or unless the partition cannot otherwise be conveniently carried out. Sir-land belonging to one sharer not to be included without his consent in the pattí of another sharer.

(2) If such land be so included and after partition such co-sharer continue to cultivate it, he shall be recorded as an occupancy-tenant in respect of such land, and his rent shall be fixed by order of the Deputy Commissioner.

**136O.** (1) Tanks, wells, water-courses and embankments shall be treated Rule as to tanks, wells and other irrigation-works. as attached to the land for the benefit of which they were originally made.

(2) Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the pattís into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each pattí may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works shall be divided.

**136P.** (1) Places of worship and burial-grounds held in common previous to the partition of a mahál shall continue to be so held unless the parties otherwise agree among themselves. Rule regarding places of worship and burial-grounds.

(2) In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

**136Q.** (1) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner, the case may be dismissed. Deputy Commissioner may dismiss case for non-payment of costs or may quash proceedings.

(2) If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may stay the partition and order the proceedings to be quashed, recording his reasons for so doing.

**136R.** On completion of the partition, the Deputy Commissioner shall submit the proceedings to the Commissioner, who may either uphold the Commissioner's sanction to



partition  
necessary.

When  
partition  
sanctioned,  
notification  
to be  
published.

partition proposed or modify it or quash the proceedings; and a partition shall not take effect until it has been sanctioned by him.

**136S.** (1) On a partition being sanctioned by the Commissioner, the Deputy Commissioner shall publish a notification of the fact at his office and at some conspicuous place in the village or villages of the mahál of which the partitional pattis formed part.

(2) The partition shall take effect from the first day of the agricultural year next after the date of such notification.

#### *Perfect Partition.*

Applications  
for perfect  
partition to  
be made to  
Settlement-  
officer.

**136T.** (1) Applications for perfect partition shall be made, in such form as may be prescribed by the Chief Commissioner, to the Settlement-officer charged with the settlement of the area in which the mahál is situate.

(2) Such applications must show that the share which it is desired to have formed into a separate mahál is already held in severalty saving such portion of it as may be impartible. An application failing to show this shall be rejected.

Settlement-  
officer may  
declare  
shares in  
maháls to  
be separate  
maháls.

**136U.** (1) Subject to any rules which may be made by the Chief Commissioner, the Settlement-officer, if he is satisfied of the truth of the matters stated in the application, may, if he thinks fit, declare the share to be a separate mahál, and may assess it separately to land-revenue:

Provided that no share shall be declared to be a separate mahál till the proprietors of other shares in the mahál have been given an opportunity of objecting to its perfect partition.

(2) Except with the sanction of the Commissioner, an incompact estate shall not be declared to be a separate mahál.

#### *Supplemental Provisions.*

Power to  
make rules  
regarding  
partition  
proceedings.

**136V.** The Chief Commissioner may make rules regarding—

- (a) the form in which applications for partitions shall be made;
- (b) the procedure to be followed in referring matters to arbitrators and in giving effect to the award of arbitrators;
- (c) the costs of partition and the mode in which costs are to be apportioned; and,
- (d) generally, for carrying out the provisions of this Chapter.

Partition  
may be  
effected by  
distribution  
of maháls.

**136W.** Notwithstanding anything contained in this Chapter, when an estate, in respect of the whole or part of which imperfect partition is sought, consists of two or more maháls, or shares in two or more maháls, the partition may be effected by the distribution of such maháls or shares between the

<sup>1</sup> The present s. 136W was inserted by s. 9 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), *infra*, in place of the former section, which was inserted as part of Ch. XA by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), but which was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

co-sharers, without imperfect partition of the maháls or shares, or partly by such distribution and partly by imperfect partition, as the Deputy Commissioner may, of his own motion, or on the application of the parties, deem fit. In making the partition referred to in this section, the Deputy Commissioner shall be guided by the provisions of this Chapter so far as they are compatible with the distribution as aforesaid.

## CHAPTER XI.

### VILLAGE-OFFICERS AND PATWÁRIS.

**137.** The Chief Commissioner may make rules regulating the appointment, remuneration, suspension and removal of lambardárs, sub-lambardárs, <sup>1</sup>[mukaddams and patéls]:

Power to  
make rules  
as to  
officers.

Provided that, except with the previous sanction of the Governor General in Council, proprietors, other than málik-mákbuzás, shall not be liable to pay, on account of the aggregate remuneration of lambardárs or sub-lambardárs and mukaddams, a sum exceeding five per cent. on the land-revenue which is assessed on their land, or which, when their land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessed on their land if it were subject to assessment.

In framing rules for the appointment under this section of lambardárs and sub-lambardárs for any mahál, the Chief Commissioner shall have regard among other matters to local custom and hereditary claims, and to entries on the subject in the record-of-rights of such mahál.

<sup>2</sup>The lambardár of the village shall ordinarily also be the mukaddam. When a lambardár who does not reside in the village is appointed mukaddam thereof, he shall, subject to the approval of the Deputy Commissioner, appoint an agent to perform the duties of a mukaddam. If there are resident co-sharers in the village the non-resident lambardár shall appoint one of them to be his agent unless the Deputy Commissioner for special reasons allows him to appoint some other person. If a mukaddam fails within a reasonable time to appoint an agent with the approval of the Deputy Commissioner, the Deputy Commissioner shall himself appoint an agent and shall fix the amount of his remuneration, which shall be paid to him by the mukaddam.

<sup>1</sup> These words in square brackets were substituted for the words "and mukaddams" by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 27 (1), *infra*.

<sup>2</sup> This and the three following paragraphs of s. 137 were substituted for the original last paragraph by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 27 (2). That paragraph was as follows:—

"In every village in which there are resident málguzárs, one of such málguzárs shall be the mukaddam."

<sup>1</sup>An agent appointed under this section shall be deemed to have the powers conferred on, and to be responsible for the performance of the duties prescribed with regard to, mukaddams by this Act and the rules made hereunder.

<sup>1</sup>Any fine imposed on such agent for a breach of the provisions of this Act or the rules made hereunder may be recovered from the mukaddam whose agent he is by the Deputy Commissioner.

<sup>1</sup>In a raiyatwari village the patel shall ordinarily be the mukaddam.

Duties of  
lambardárs.

**138.** It shall be the duty of every lambardár and sub-lambardár—

- (a) to collect and pay into the Government treasury so much of the land-revenue as may under section 71 be payable through him either solely or jointly with other lambardárs or sub-lambardárs ;
- (b) to collect and pay to the mukaddam, or into the Government treasury, as the Deputy Commissioner may direct, all sums of money payable through him, either solely or jointly with other lambardárs or sub-lambardárs, by the proprietors whom he represents, on account of the remuneration of the mukaddam,<sup>2</sup> or village-watchmen, or on account of any expenses which the mukaddam is authorized to recover from the lambardárs or sub-lambardárs of his village ;
- (c) to assist the mukaddam in obtaining all particulars which he is bound to enter in the annual village-papers, or to report under this Act.

Lambardárs  
may recover  
fees and  
other  
charges from  
proprietors.

**139.** Together with the land-revenue, lambardárs and sub-lambardárs may recover from the proprietors whom they respectively represent—

- (a) any remuneration to which they are entitled as such ; and
- (b) the sum which, under section 138, they are bound to pay to mukaddams :

Provided that no such recovery shall be made from málik-mákbuzás paying a percentage which includes remuneration to mukaddams and lambardárs.

Deputy  
Commis-  
sioner  
may alter  
channel  
through  
which málik-  
mákbuzá  
pays  
revenue.

**140.** On the application of any málik-mákbuzá or other like holder of land, or of the lambardár or sub-lambardár through whom such málik-mákbuzá or other holder of land pays the revenue assessed on his holding, the Deputy Commissioner may, for sufficient cause shown, order that such revenue be paid through any other lambardár or sub-lambardár, or that it be paid into the Government treasury.

Effect of  
order for  
payment of  
revenue  
direct to  
Government.

When the Deputy Commissioner orders such payment to be made into the Government treasury, such portion of the percentage fixed under section 64 as the Deputy Commissioner, subject to the control of the Chief

<sup>1</sup> See the second footnote on preceding page.

<sup>2</sup> The word "patwáris" was repealed by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907), *infra*.

Commissioner, may determine, shall be so paid, and the *málík-mákbuzá* or other person shall pay the rest to the mukaddam on account of their fees and the other village-expenses.

**141.** It shall be the duty of every mukaddam—

Duties of mukaddams.

- (a) to control and superintend the <sup>1</sup> \* \* \* village-watchmen ; to report their deaths or absence from duty ; to maintain them in the possession of any lands appertaining to their office ; to recover and pay to them any cash allowances to which they may be entitled ; and to take such steps as may be necessary to compel them to perform their duties ;
- (b) to furnish reports regarding the state of his village, at such places and times as the Deputy Commissioner fixes in this behalf ;
- (c) to report and, if possible, to prevent encroachments on the public paths and roadways in his village ;
- (d) to preserve such stations and marks erected in his village by Government surveyors as may be made over to his care ;
- (e) subject to any rules issued by the Chief Commissioner, to keep his village in good sanitary condition ;
- (f) to report violations of any rules which the Chief Commissioner may make for the preservation of underwood, forests and trees growing on the village-lands, and for securing to persons entitled to cut wood and enjoy other privileges in the waste-lands of the village the rights to which they are entitled ;
- (g) to collect, or aid in the collection of, all payments due to Government in his village ;
- (h) to report all births and deaths taking place in his village.

The Chief Commissioner may make rules—

- (1) adding to the list of duties which a mukaddam is required to perform under this section ; and
- (2) regulating the liability of persons residing in any village for charges necessarily incurred by mukaddams in the performance of the duties specified in clause (e) in respect of such village, and for apportioning such charges among such persons ; and
- (3) determining the officers to whom reports under this section shall be made.

**142.** When, by any enactment for the time being in force, any public duties are imposed on, or public liabilities are declared to attach to, landholders, their managers and agents and the like, such duties shall be deemed to be imposed on, and such liabilities shall be held to attach to, mukaddams appointed under this Act :

Liabilities imposed by law on landholders to attach to mukaddams.

<sup>1</sup> The words "village-pati-ári and" were repealed by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907), *infra*.

Provided that nothing herein contained shall discharge landholders, their managers or agents or the like from any liabilities imposed upon them by law.

Power of mukaddams to recover certain expenses incurred. Duties of patél.

**143.** Every mukaddam may recover from the lambardárs or sub-lambardárs of the village to which he is appointed his own remuneration, together with any expenses necessarily incurred in the performance of his duties.

**143A.** It shall be the duty of every patél, in addition to his duties as mukaddam,—

- (a) to collect and pay into the Government treasury the land-revenue assessed on the survey-numbers or holdings of his village ;
- (b) in respect of his village to report the abandonment of survey-numbers or holdings, the encroachment of raiyats on waste-land not included in their survey-numbers or holdings, and the non-payment of revenue or any facts which indicate that default will be made in the payment thereof ;
- (c) to assist the <sup>2</sup> \* \* village-watchman of his village in the recovery of dues to which <sup>3</sup>[he is] entitled ;
- (d) to prevent the unauthorized cutting of wood in Government forests included in or adjoining his village and to report any such unauthorized cutting in such forests.

Chief Commissioner may make rules as to patwáris.

**144.** The Chief Commissioner may make rules—

- <sup>4</sup>[(a) providing for the appointment of patwáris in tracts where they have not been already appointed ; ]
- <sup>5</sup>(b) regulating the manner in which patwáris are to be selected ; prescribing the conditions under which they may be appointed ; and fixing the limits of their circles and the nature, mode and amount of their remuneration ;
- <sup>6</sup>(c) prescribing the conditions under which substitutes may be appointed for persons having hereditary claims to the office of patwári, when such persons are unable to act ;

<sup>1</sup> Section 143A was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 28, *infra*.

<sup>2</sup> The words "patwári and" were omitted by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907), *infra*.

<sup>3</sup> These words "he is" were substituted for the words "they are" by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).

<sup>4</sup> Clause (a) was inserted by s. 29 (f) of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), *infra*.

<sup>5</sup> These clauses were originally cls. (a) and (b) respectively. They were re-lettered as they now stand by s. 20 (2) of the Central Provinces Land revenue Act, 1889 (XVI of 1889), *infra*.

- <sup>1</sup>(d) prescribing the fines which may be imposed on patwáris and their substitutes for neglect of their duty, and stating the circumstances under which they may be suspended or removed.

2\* \* \* \* \*

**145.** [Rules by Chief Commissioner for guidance of Deputy Commissioner.] *Rep., Act XVI of 1889, s. 30.*

**146.** The Chief Commissioner may make rules prescribing the duties of patwáris—

Chief Commissioner may define duties of patwáris.

- (a) towards the Government; and may in such rules determine the registers, returns or other papers which they shall keep or furnish, the forms and language in which such registers and returns are to be prepared, the mode of their preparation and attestation, and the dates on which they are to be furnished;

- (b) towards the members of the village community <sup>3</sup>\* \* \* \*

\* \* \* \*

All records and papers which patwáris are required to prepare or keep by any rule made by the Chief Commissioner under this section shall be deemed to be public documents within the meaning of the <sup>4</sup> Indian Evidence Act, 1872, and to be the property of Government.

Patwáris' papers to be public documents.

I of 1872.

**146A.** [Power to fix amount to be paid by proprietors, tenants and raiyáts for patwáris.] *Rep. by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).*

**147.** Patwáris shall produce at all reasonable times for the inspection of all persons interested therein, all records and papers which they are so required to prepare or keep, and shall allow such persons to make copies of such records and papers.

Patwáris to produce papers for inspection, and to allow copies to be made.

**147A.** The Chief Commissioner may make rules regarding village-watchmen, and may in the rules—

Power to make rules regarding village-watchmen.

- (a) provide for and regulate their appointment, "[punishment,] suspension or removal, prescribing the number of village-watchmen who may hold office at one time in a single village, and providing for the appointment of a single village-watchman for two or more

<sup>1</sup> This clause was originally cl. (c). It was re-lettered as it now stands by s. 29 (2) of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), *infra*.

<sup>2</sup> The proviso to s. 144 was repealed by s. 29 (2) of the Central Provinces Land-revenue Act, 1889 (XVI of 1889).

<sup>3</sup> The words "and may in such rules fix the remuneration, if any, other than the fixed emoluments of their office, which the patwáris may demand in respect of the performance of such duties" were repealed by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 31, *infra*.

<sup>4</sup> See Genl. Acts, Vol. II.

<sup>5</sup> Section 147A was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 33, *infra*.

<sup>6</sup> The word "punishment" was inserted by s. 10 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), *infra*.

villages where such villages would be unable to support separate village-watchmen ;

(b) determine the character and amount of the remuneration which village-watchmen shall be entitled to demand from the members of the village-community ;

(c) define the duties and the mode of supervision of village-watchmen.

Existing  
officers  
confirmed.

**148.** All existing lambardárs, sub-lambardárs, mukaddams, <sup>1</sup>[patwáris and village-watchmen] shall, unless the Chief Commissioner in any specified case otherwise directs, be deemed to have been appointed under this Act.

Lambardárs  
and other  
officers'  
dues  
recoverable  
as arrears.

**149.** Any sums which lambardárs, sub-lambardárs, mukaddams <sup>2</sup>[and village-watchmen] are entitled to recover or demand under this Chapter may, if the Deputy Commissioner so directs, be recovered in the same manner as an arrear of revenue payable directly to the Government.

Holders of  
sir-land in  
Sambalpúr  
to provide  
for remun-  
eration of  
mukaddams.

**150.** In each village of the District of Sambalpúr all persons holding sir-land, other than mukaddams, are bound to provide for the due remuneration of the mukaddam of the village ; and the Chief Commissioner may make rules for the enforcement of this obligation.

## PART V.

### CHAPTER XII.

#### MISCELLANEOUS.

Right to  
mines,  
quarries and  
fisheries.

**151.** Unless it is otherwise expressly provided in the records of a settlement or by the terms of a grant made by the Government, the right to all mines, minerals, coals and quarries, and to all fisheries in navigable rivers 3\* \* \* shall be deemed to belong to Government, and the Government shall have all powers necessary for the proper enjoyment of such rights :

Provided that, whenever in the exercise by the Government of the rights herein referred to over any land the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the Government shall pay to such persons compensation for such infringement, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the <sup>4</sup>Land Acquisition Act, 1870.

X of 1870.

<sup>1</sup> These words in square brackets were substituted for the words "and patwáris" by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 34, *infra*.

<sup>2</sup> These words were substituted for the words "and patwáris" by the Central Provinces Land-revenue Act, 1889 (16 of 1889), s. 35.

<sup>3</sup> The words "and the right to extract sap from all palmyra and cocoanut trees" were repealed by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 36, *infra*.

<sup>4</sup> See now the Land Acquisition Act, 1894 (I of 1894), Genl. Acts, Vol. IV.

**152.** Except as otherwise hereinbefore provided,—

Exclusive  
jurisdiction  
of revenue-  
authorities.

(a) no Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order on any matter which the Governor General in Council, the Chief Commissioner or a Revenue or a Settlement-officer is, by this Act, empowered to determine or dispose of; and in particular

(b) no Civil Court shall exercise jurisdiction over any of the following matters; Matters  
excepted  
from  
jurisdiction  
of Civil  
Courts.

(1) any matters provided for in sections 40, 41, 42 and 89 as to waste lands;

(2) the claim of any person to have an assessment offered to, or sub-settlement made with, him;

(3) the amount of revenue or rate to be assessed on any mahál, share or portion of a mahál under this or any other Act for the time being in force;

(4) questions as to the validity of any engagement with Government for the payment of land-revenue, or of any agreement entered into by superior or inferior proprietors in a settlement or sub-settlement;

(5) claims connected with or arising out of any process enforced on account of refusal to accept the assessment offered in a settlement or sub-settlement by the Settlement-officer or Deputy Commissioner;

(6) the amount of the allowance or rent fixed under section 61 or 62;

(7) the re-distribution according to established custom, by a Settlement-officer, of land comprised in a mahál;

(8) the formation of the record-of-rights, the preparation, signing or attestation of any of the documents contained therein, or the notification of settlement;

(9) any matters provided for or referred to in section 73, 74 or 130 as to lands held or claimed to be held free from revenue, except rights arising under any contract between the Government of India and grantees of land;

(10) claims connected with, or arising out of, the collection of revenue, or any process enforced on account of an arrear of revenue, or on account of any sum which is under this or any other Act realizable as revenue;

(11) claims to set aside, on any ground other than fraud, sales for arrears of revenue;



(12) corrections of entries or revisions of records under sections 120, 121 and 122 :

<sup>1</sup>(13) questions connected with or arising out of the exclusion of a proprietor from forest-land, and the direct management of such land under section 124A :

<sup>1</sup>(13a) the distribution of the land or allotment of the revenue of a mahál by partition ; or the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahál or the pattí of another co-sharer :

(14) claims to the office of patwárá, lambardár, sub-lambardár, <sup>2</sup> [mukaddam, patél or village watchman,] or in respect of any injury caused by exclusion therefrom, or to compel the performance of the duties thereof :

(15) claims to compel the performance of any duties imposed by this Act on any Revenue or Settlement-officer.

In all the above cases jurisdiction shall rest with the Revenue-authorities only.

**153.** No suit shall lie in any Civil or Revenue Court for the recovery of any village cess which has not been sanctioned by the Chief Commissioner and also either recorded at a settlement or under section 132, clause (h).

**154.** Whenever, at any settlement made before this Act comes into force, waste lands have been demarcated as the property of Government, no claim of any person to, or in respect of, such lands shall be entertained by any Civil Court after the expiration of three years from the date of such demarcation.

**155.** No Revenue or Settlement-officer, and no person employed in any Revenue or Settlement-office, shall, except with the express permission of the Chief Commissioner,—

(a) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the purchase or hiring of land, in the district to which he is appointed, or in which he is employed ;

(b) purchase or bid for either in person or by agent, in his own name or in that of another or jointly or in shares with others, any property which may be sold by order of any Revenue-authority in such district.

The Chief Commissioner may delegate to Commissioners of Divisions or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class of officers.

<sup>1</sup> Clauses (13) and (13a) were substituted for the original cl. (13) by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 37, *intra*.

<sup>2</sup> These words were substituted for the words " or mukaddam " by the Central Provinces Land-revenue Act, 1889 ( XVI of 1889), s. 38, *post*.

For what village-cesses suit lies.

Limitation of claims for compensation in case of waste-land demarcated as property of Government.

Restriction on Revenue and Settlement-officers trading and holding land.

X of 1866. Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the 'Indian Companies Act, 1866.

**156.** When any mahál is managed or let in farm under section 57 or 58, or when either of the proclamations mentioned in sections 98 and 103 has been made, all sums due to the proprietor in respect of the mahál, share or land mentioned in any of the said sections, shall be payable only to the Deputy Commissioner or Settlement-officer, his agent or lessee and no payment made to such proprietor in anticipation of the usual period for such payment shall, without the sanction of the Deputy Commissioner or Settlement officer, be credited to the person making the same in account with the Deputy Commissioner or Settlement-officer, his agent or lessee.

When mahál managed or farmed, or upon proclamation under section 98 or 103, rent payable to Deputy Commissioner. Payment to proprietor in anticipation of due date.

**157.** When any land has been let in farm under the provisions of this Act, any revenue due from the farmer in respect of such land may be recovered from him or his surety as an arrear of revenue payable directly to Government.

Recovery of balance due by farmers.

**157 A.** Rents, fees and royalties due to the Government for the use or occupation of land or water (whether the property of the Government or not) or on account of any products thereof, and all moneys falling due to the Government under any grant, lease or contract which provides that they shall be so recoverable, may be recovered under this Act in the same manner as an arrear of land-revenue.

Recovery of miscellaneous revenue.

**158.** All land-revenue due when this Act comes into force, and all penalties or other moneys payable to, or recoverable by, an officer of Government under this Act, shall be recovered from the persons from whom they are due and from the sureties (if any) of such persons as if such land-revenue, penalties or moneys were an arrear of revenue payable directly to Government due under this Act by such persons and their sureties.

Recovery of revenue due when Act comes into force; and of money payable under Act.

**159.** All proceedings taken before this Act comes into force for the collection of the land-revenue or the realization of arrears thereof shall be deemed to have been taken in accordance with law.

Past proceedings for collection of revenue legalized.

**160.** In conferring powers under this Act the Chief Commissioner may empower persons by name or classes of officials generally by their official titles.

Chief Commissioner may empower persons by name, or confer powers on classes.

**161.** The Chief Commissioner may vary or cancel any order conferring powers under this Act.

Chief Commissioner may vary or cancel orders.

<sup>1</sup> See now the Indian Companies Act, 1913 (VII of 1913), which came into force on 1st April, 1914. *Genl. Acts*, Vol. VII.

<sup>2</sup> Section 157A was inserted by s. 11 of the Central Provinces Land-revenue Act, 1898 (VII of 1898), *infra*.

Penalty for failure to perform duty or abuse of authority by mukaddam or agent.

**161A.** Any mukaddam or agent of a mukaddam who without reasonable excuse fails to perform any duty imposed on him by this Act or the rules made thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, shall be <sup>2</sup> [liable, on the order of a Deputy Commissioner, to a fine] which may extend to fifty rupees, and, in the case of a continuing failure, to a fine of ten rupees for each day during which the failure continues.

Penalty for neglecting or disobeying orders of mukaddam or agent.

**161B.** Any person who neglects or disobeys a reasonable order made by a mukaddam or agent of a mukaddam in pursuance of the duty imposed upon him by section 141, clause (e), shall be <sup>2</sup> [liable, on the order of a Deputy Commissioner, to a fine] which may extend to twenty rupees, and, if the neglect or disobedience is continued, shall also be liable to a fine of five rupees for each day during which the neglect or disobedience is continued.

Chief Commissioner may make rules and attach penalty to breach thereof.

**162.** The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for carrying out its provisions, and may attach to the breach of any such rule, or of any other rule made by him under this Act, a penalty which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

All powers to make rules conferred by this Act on the Chief Commissioner shall be exercised subject to the control of the Governor General in Council, and may be exercised from time to time as occasion requires.

No rule made by the Chief Commissioner under this Act shall take effect until it has been published in the local official Gazette.

All such rules, when so published, shall have the force of law.

## SCHEDULE.

[ENACTMENTS REPEALED.]

*Repealed by the Repealing and Amending Act, 1891 (XII of 1891).*

## THE INDIAN EASEMENTS ACT, 1882.

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<sup>1</sup> Sections 161A and 161B were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 39, *infra*.

<sup>2</sup> These words in square brackets in 161A and 161B were substituted for the words "punishable with fine" by s. 12 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), *infra*.

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ACT No. V OF 1882.<sup>1</sup>

[THE INDIAN EASEMENTS ACT, 1882.]

[17th February, 1882.]

AN Act to define and amend the law relating to Easements  
and Licenses.

WHEREAS it is expedient to define and amend the law relating to Easements and Licenses; It is hereby enacted as follows :—

## PRELIMINARY.

1. This Act may be called the Indian Easements Act, 1882.

Short title.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1880, Pt. V, p. 494; for Report of the Select Committee, see *ibid*, 1881, Pt. V, p. 1021; and for Proceedings in Council, see *ibid*, 1881, Supplement, pp. 687 and 766, and *ibid*, 1882, Supplement, p. 172.

**Local extent.** It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg ;

**Commence-  
ment.  
Savings.** and it shall come into force on the first day of July, 1882.

**2.** Nothing herein contained shall be deemed to affect any law not hereby expressly repealed, or to derogate from—

(a) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation ;

(b) any customary or other right (not being a license) in or over immoveable property which the Government, the public or any person may possess irrespective of other immoveable property ; or

(c) any right acquired, or arising out of a relation created, before this Act comes into force.

**Construction of certain references to Act XV of 1877 and Act IX of 1871.** [3. All references in any Act or Regulation to sections 26 and 27 of the Indian Limitation Act, 1877,<sup>2</sup> or to sections 27 and 28 of Act No. IX of 1877, shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act.]

## CHAPTER I.

### OF EASEMENTS GENERALLY.

**" Easement " defined.** **4.** An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

**Dominant and servient heritages and owners.** The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner ; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner.

*Explanation.*—In the first and second clauses of this section the expression " land " includes also things permanently attached to the earth ; the expression " beneficial enjoyment " includes also possible convenience, remote advantage, and even a mere amenity ; and the expression " to do something " includes removal and appropriation by the dominant owner, for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

<sup>1</sup> This section was substituted for the original section 3 by the Repealing and Amending Act, 1914 (X of 1914), s. 2 and Sch. I.

<sup>2</sup> Repealed by the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. VI.

*Illustrations.*

(a) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(b) A, as the owner of a certain house, has the right to go on his neighbour B's land and to take water for the purposes of his household out of a spring therein. This is an easement.

(c) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(d) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(e) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(f) A is bound to cleanse a watercourse running through his land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

**5.** Easements are either continuous or discontinuous, apparent or non-apparent.

A continuous easement is one whose enjoyment is or may be continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which upon careful inspection by a competent person would be visible to him.

A non-apparent easement is one that has no such sign.

*Illustrations.*

(a) A right annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(b) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(c) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(d) A right annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

**6.** An easement may be permanent or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Continuous and discontinuous, apparent and non-apparent, easements

Easement for limited time or on condition.



Easements  
restrictive  
of certain  
rights.  
Exclusive  
right to  
enjoy.

Rights to  
advantages  
arising from  
situation.

7. Easements are restrictions of one or other of the following rights (namely) :—

- (a) The exclusive right of every owner of immoveable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto.
- (b) The right of every owner of immoveable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation.

*Illustrations of the rights above referred to.*

(a) The exclusive right of every owner of land in a town to build on such land, subject to any municipal law for the time being in force.

(b) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(c) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(d) The right of every owner of land to so much light and air as pass vertically thereto.

(e) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent and adjacent soil of another person.

*Explanation.*—Land is in its natural condition when it is not excavated and not subjected to artificial pressure ; and the “subjacent and the adjacent soil” mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(f) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(g) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(h) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature ; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(i) The right of every owner of upper land that water naturally rising in, or falling on such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land, to run naturally thereto.

(j) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep ; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

*Explanation.*—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

## CHAPTER II.

## THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

**8.** An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed. Who may impose easements.

*Illustrations.*

(a) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(b) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(c) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(d) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

**9.** Subject to the provisions of section 8, a servient owner may impose on the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility. Servient owners.

*Illustrations.*

(a) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: provided that A's supply is not thereby diminished.

(b) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: provided that A's right of way is not thereby obstructed.

**10.** Subject to the provisions of section 8, a lessor may impose, on the property leased, any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage. Lessor and mortgagor.

*Explanation.*—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

**11.** No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor. Lessee.

Who may  
acquire ease-  
ments.

**12.** An easement may be acquired by the owner of the immoveable property for the beneficial enjoyment of which the right is created, or on his behalf by any person in possession of the same.

One of two or more co-owners of immoveable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immoveable property can acquire, for the beneficial enjoyment of other immoveable property of his own, an easement in or over the property comprised in his lease.

Easements of  
necessity and  
quasi-  
easements.

**13.** Where one person transfers or bequeaths immoveable property to another :—

- (a) if an easement in other immoveable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement ; or,
- (b) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement ;
- (c) if an easement in the subject of the transfer or bequest is necessary for enjoying other immoveable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement ; or,
- (d) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons—

- (e) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or,
- (f) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (a), (c) and (e), are called easements of necessity.

Where immoveable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

*Illustrations.*

(a) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(b) A, the owner of two fields, sells one to B and retains the other. The field retained was at the date of the sale used for agricultural purposes only, and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(c) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(d) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(e) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(f) A is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(g) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(h) A, the owner of two adjoining houses, Y and Z, sells Y to B and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z as it was enjoyed when the sale took effect.

(i) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(j) A, the owner of two adjoining buildings, sells one to B and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(k) A grants lands to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

X of 1870.

(l) Under the Land Acquisition Act, 1870,<sup>1</sup> a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding.

(m) Owing to the partition of joint property, A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

<sup>1</sup> See now the Land Acquisition Act, 1894 (I of 1894), printed, *General Acts*, Vol. IV.

(n) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

Direction  
of way of  
necessity.

**14.** When <sup>1</sup> [a right] to a way of necessity is created under section 13, the transferor, the legal representative of the testator or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way; but it must be reasonably convenient for the dominant owner.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

Acquisition  
by prescrip-  
tion.

**15.** Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years, and

where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

*Explanation I.*—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

*Explanation II.*—Nothing is an interruption within the meaning of this section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorising the same to be made.

*Explanation III.*—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

*Explanation IV.*—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritago.

<sup>1</sup> The words "a right" were substituted for the word "right" by the Amending Act, 1891 (XII of 1891), printed, General Acts, Vol. IV.

When the property over which a right is claimed under this section belongs to Government, this section shall be read as if for the words "twenty years" the words "sixty years" were substituted.



*Illustrations.*

(a) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862, to 1st January, 1882. The plaintiff is entitled to judgment.

(b) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed "as an easement" for twenty years.

(c) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed "as of right" for twenty years.

**16.** Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Exclusion in  
favour of  
reversioner  
of servient  
heritage.

*Illustration.*

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C had a life-interest in the land; that on C's death B became entitled to the land; and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

**17.** Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights.

Rights which  
cannot be  
acquired by  
prescription.

None of the following rights can be so acquired —

- (a) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed;
- (b) a right to the free passage of light or air to an open space of ground;
- (c) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise;
- (d) a right to underground water not passing in a defined channel.

Customary easements.

**18.** An easement may be acquired in virtue of a local custom. Such easements are called customary easements.

*Illustrations.*

(a) By the custom of a certain village every cultivator of village-land is entitled, as such, to graze his cattle on the common pasture. A, having become the tenant of a plot of uncultivated land in the village, breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(b) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

Transfer of dominant heritage passes easement.

**19.** Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

*Illustration.*

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

## CHAPTER III.

### THE INCIDENTS OF EASEMENTS.

Rules controlled by contract or title.

**20.** The rules contained in this Chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument of decree, if any, by which the easement referred to was imposed.

Incidents of customary easements. Bar to use unconnected with enjoyment.

And, when any incident of any customary easement is inconsistent with such rules, nothing in this Chapter shall affect such incident.

**21.** An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

*Illustrations.*

(a) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y A has another farm Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(b) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the

house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

**22.** The dominant owner must exercise his right in the mode which is least onerous to the servient owner ; and, when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined.

*Illustrations.*

(a) A has a right of way over B's field. A must enter the way at either end and not at any intermediate point.

(b) A has a right annexed to his house to cut thatching grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

**23.** Subject to the provisions of section 22, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage.

*Exception.*—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

*Illustrations.*

(a) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(b) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(c) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill-paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill-paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature, of the pollution.

(d) A, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

**24.** The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement ; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible ; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

*Illustrations.*

(a) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.



(b) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(c) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(d) A, as owner of a certain field, has a right of way over B's land. B renders the way impassable. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(e) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(f) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(g) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

Liability for expenses necessary for preservation of easement.

**25.** The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

Liability for damage from want of repair.

**26.** Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work.

Servient owner not bound to do anything.

**27.** The servient owner is not bound to do anything for the benefit of the dominant heritage and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement: but he must not do any act tending to restrict the easement or to render its exercise less convenient.

#### *Illustrations.*

(a) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound as servient owner to clear the watercourse or scour the sewer.

(b) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(c) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(d) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(e) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light. •

**28.** With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect :—

Extent of easements.

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed.

Easement of necessity.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired.

Other easements.

In the absence of evidence as to such intention and purpose—

- (a) a right of way of any one kind does not include a right of way of any other kind : Right of way
- (b) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made : Right to light or air acquired by grant.
- (c) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespective of the purposes for which it has been used : Prescriptive right to light or air.
- (d) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose: and Prescriptive right to pollute air and water.
- (e) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right. Other prescriptive rights.

**29.** The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement.

Increase of easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased, and, if the dominant heritage is diminished by diluvion, the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

#### *Illustrations.*

(a) A, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(b) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(c) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

Partition of  
dominant  
heritage.

**30.** Where a dominant heritage is divided between two or more persons the easement becomes annexed to each of the shares, but not so as to increase substantially the burden on the servient heritage : provided that such annexation is consistent with the terms of the instrument, decree or revenue-proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period.

#### *Illustrations.*

(a) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.

(b) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage, to draw from the well fifty buckets a day ; but the amount drawn by both must not exceed fifty buckets a day.

(c) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

Obstruction  
in case of  
excessive  
user.

**31.** In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage : provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

#### *Illustration.*

A, having a right to the free passage over B's land of light to four windows six feet by four, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

## CHAPTER IV.

### THE DISTURBANCE OF EASEMENTS.

Right to  
enjoyment  
without  
disturbance.

**32.** The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

#### *Illustration.*

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

Suit for  
disturbance

**33.** The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the

easement or of any right accessory thereto : Provided that the disturbance has actually caused substantial damage to the plaintiff. of ease-  
ment.

*Explanation I.*—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

*Explanation II.*—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section unless it falls within the first explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

*Explanation III.*—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

#### *Illustrations.*

(a) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(b) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

**34.** The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage is actually sustained.

When cause  
of action  
arises for  
removal of  
support.  
Injunction  
to restrain  
disturbance.

1 of 1877.

**35.** Subject to the provisions of the Specific Relief Act, 1877,<sup>1</sup> sections 52 to 57 (both inclusive) an injunction may be granted to restrain the disturbance of an easement—

(a) if the easement is actually disturbed—when compensation for such disturbance might be recovered under this Chapter :

(b) if the disturbance is only threatened or intended—when the act threatened or intended must necessarily, if performed, disturb the easement.

**36.** Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

Abatement  
of obstruction  
of  
easement.

<sup>1</sup> Printed, General Acts, Vol. II.

## CHAPTER V.

## THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

Extinction  
by dissolution  
of  
right of  
servient  
owner.

**37.** When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

*Exception.*—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

*Illustrations.*

(a) A transfers Sultānpur to B on condition that he does not marry C. B imposes an easement on Sultānpur. Then B marries C. B's interest in Sultānpur ends, and with it the easement is extinguished.

(b) A, in 1860, let Sultānpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultānpur then ends, and with it C's easement.

(c) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(d) A mortgages Sultānpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage-debt. The easement is not thereby extinguished.

Extinction  
by release.

**38.** An easement is extinguished when the dominant owner releases it expressly or impliedly to the servient owner.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

*Explanation I.*—An easement is impliedly released —

(a) where the dominant owner expressly authorises an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority ;

(b) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

*Explanation II.*—Mere non-user of an easement is not an implied release within the meaning of this section.

*Illustrations.*

(a) A, B and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(b) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C, B then purports to release the easement. The release is ineffectual.

(c) A, having the right to discharge his eavesdroppings into B's yard, expressly authorises B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(d) A, having an easement of right to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(e) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land, permanently alters the roof so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

**39.** An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

**40.** An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled.

**41.** An easement of necessity is extinguished when the necessity comes to an end.

*Illustration.*

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

**42.** An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

**43.** Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

- (a) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used ; or
- (b) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it ; or
- (c) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

**44.** An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement :

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage ; and the provisions of section 14 apply to such way.

Extinction by revocation.

Extinction on expiration of limited period or happening of dissolving condition.

Extinction on termination of of necessity.

Extinction of useless easement.

Extinction by permanent change in dominant heritage.

Extinction on permanent alteration of servient heritage, by superior force.

*Illustrations.*

(a) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(b) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

Extinction  
by destruc-  
tion of  
either  
heritage.

**45.** An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

*Illustration.*

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

Extinction  
by unity of  
ownership.

**46.** An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

*Illustrations.*

(a) A, as the owner of a house, has a right of way over B's field. A mortgages his house and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(b) The dominant owner acquires only part of the servient heritage: the easement is not extinguished, except in the case illustrated in section 41.

(c) The servient owner acquires the dominant heritage in connection with a third person; the easement is not extinguished.

(d) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages; the easements are not extinguished.

(e) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(f) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires only one of the servient heritages. The easement is not extinguished.

(g) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

Extinction  
by non-  
enjoyment

**47.** A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner:

Provided that, if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877,<sup>1</sup> a declaration of his intention to retain such easement, it shall not be III of 1877.

<sup>1</sup> Act III of 1877 was repealed and re-enacted by the Indian Registration Act, 1908 (XVI of 1908). Printed, General Acts, Vol. VI.

extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

- (a) where the cessation is in pursuance of a contract between the dominant and servient owners ;
- (b) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period ; or
- (c) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

*Illustration.*

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

**48.** When an easement is extinguished, the rights (if any) accessory thereto are also extinguished. Extinction of accessory rights.

*Illustration.*

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

**49.** An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein. Suspension of easement.

**50.** The servient owner has no right to require that an easement be continued ; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage. Servient owner not entitled to require continuance.



Compensation for damage caused by extinguishment.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

*Illustration.*

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

Revival of easements.

**51.** An easement extinguished under section 45 revives (a) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (b) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and (c) when the destroyed heritage is a dominant building and before twenty years have expired, such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

*Illustration.*

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

## CHAPTER VI.

### LICENSES.

"License" defined.

**52.** Where one person grants to another or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

Who may grant license.

**53.** A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

**54.** The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license. Grant may be expressed or implied.

**55.** All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses. Accessory licenses annexed by law.

*Illustration.*

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

**56.** Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents. License when transferable.

*Illustrations.*

(a) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immovable property of B. The right cannot be transferred.

(b) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

**57.** The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not aware. Grantor's duty to disclose defects.

**58.** The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee. Grantor's duty not to render property unsafe.

**59.** When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license. Grantor's transferee not bound by license.

**60.** A license may be revoked by the grantor, unless—

- (a) it is coupled with a transfer of property and such transfer is in force;
- (b) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

**61.** The revocation of a license may be express or implied. License when revocable.

*Illustrations.*

(a) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(b) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked. Revocation express or implied.

**62.** A license is deemed to be revoked—

- (a) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license;
- (b) when the licensee releases it, expressly or impliedly, to the grantor or his representative;

License when deemed revoked.

- (c) where it has been granted for a limited period, or required on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled :
- (d) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right :
- (e) where the licensee becomes entitled to the absolute ownership of the property affected by the license :
- (f) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable :
- (g) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist :
- (h) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee :
- (i) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

**63.** Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

**64.** Where a license has been granted for a consideration, and the licensee without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

ACT NO. XXI OF 1882.<sup>1</sup>

[THE MADRAS FOREST (VALIDATION) ACT, 1882.]

[2nd November, 1882.]

An Act to remove doubts regarding the Madras Forest Act, 1882.<sup>2</sup>

WHEREAS doubts have arisen whether the Madras Forest Act, 1882,<sup>2</sup> is consistent with certain Acts of the Governor General in Council, and it is expedient to remove those doubts ; It is hereby enacted as follows : --

**1.** No enactment of the Governor General in Council shall affect, or shall be deemed to have at any time contained anything which would affect the Madras Forest Act, 1882.

<sup>1</sup> Short title, " The Madras Forest (Validation) Act, 1882 " was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, see Gazette of India, 1882, Pt. V, p. 947 ; for Proceedings in Council, see *ibid*, 1882, Supplement, pp. 1463, 1493 and 1701.

<sup>2</sup> Printed, *infra*.

Licensee's  
rights on  
revocation.

Licensee's  
rights on  
eviction.

Enactments  
of the  
Governor  
General in  
Council not  
to affect  
the Madras  
Forest Act.

Mad. Act V  
of 1882.

## ACT No. I OF 1883.

[THE CENTRAL PROVINCES LOCAL SELF-GOVERNMENT ACT, 1883.]

[12th January 1883.]

\* \* \* \* \*

<sup>1</sup>41. (1) All rates for the maintenance of roads, schools or the district post for the payment of which provision <sup>2</sup>[is made in any settlement record] shall be deemed to have been legally imposed, and shall be recoverable as if they were arrears of land-revenue payable directly to Government and due on the land in respect of which they are payable.

Confirmation  
and  
recovery of  
existing  
rates\*

\* \* \* \* \*

ACT No. II OF 1884.<sup>3</sup>

[THE MADRAS PARTITION-DEEDS (VALIDATION) ACT, 1884.]

[18th January, 1884.]

An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby; It is hereby enacted as follows:—

1. Notwithstanding anything contained in any Act to the contrary, instruments of partition relating to immoveable property in the Madras Presidency, which have been executed before the passing of this Act and have not been registered, shall have the same force and effect as if they had been registered, under the law in force at the time when they were executed:

Certain un-  
registered  
instruments  
of partition  
to have same  
force and  
effect as  
registered  
instruments.

Provided that this Act shall not—

(a) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or

<sup>1</sup> Section 41, subsection (1) of this Act is in force in the Taluques of Nugur, Albaka and Cherla which ceased to be under the administration of the Chief Commissioner of the Central Provinces and became subject to the Government of Madras in pursuance of Proclamation No. 545, dated the 15th April, 1909, issued by the Governor General in Council under s. 4 of the Government of India Act, 1865, with effect from the 1st July, 1909; see Regulation 1 of 1909, s. 3, *infra*.

<sup>2</sup> These words in square brackets were substituted for the words "has been made in any settlement record previous to the passing of this Act," by Act XVI of 1889, s. 41, *infra*.

<sup>3</sup> Short title "The Madras Partition deeds (Validation) Act, 1884" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, see Gazette of India, 1883, Pt. V, p. 362; for Proceedings in Council, see *ibid*, 1883, Supplement, p. 2095 and *ibid*, 1884, Supplement, p. 164.

(b) affect the title of a transferee for value in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or

(c) affect any right established by a final decree of a Court of competent jurisdiction.

Compensation to person deprived of right owing to transfer under section 1, clause (b).

2. When any person to whom any right has accrued on the partition, or any person claiming under that person, has, by any such transfer as is mentioned in section 1, clause (b), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has directly or indirectly caused such privation of right, or, if the sharer is dead, from his assets :

Provided that suit be brought \* \* \* \*<sup>1</sup> within three years from the date of the transfer if the transfer is made after this Act comes into force.

ACT No. XXI OF 1885.<sup>2</sup>

[THE MADRAS CIVIL COURTS ACT, 1885.]

[26th October, 1885.]

An Act to amend the Madras Civil Courts Act, 1873.

WHEREAS it is expedient to amend the Madras Civil Courts Act, 1873 ; It III of 1873. is hereby enacted as follows :—

Short title.

1. (I) This Act may be called the Madras Civil Courts Act, 1885.

\* \* \* \* \*

Addition to section 5 of Act III of 1873.

2. To section 5 of the Madras Civil Courts Act, 1873, the following shall III of 1873. be added, namely :—

[*Vide supra*, p. 104.]

Addition to section 11 of the same Act. Amendment of sections 22 and 23 of the same Act.

3. To section 11 of the same Act the following shall be added, namely :—

[*Vide supra*, p. 105.]

4. (a) In section 22 of the same Act, before the words “ be final,” and (b) in section 23 of the same Act as amended by Act XIX of 1877,<sup>4</sup> before the words “ be suspended or removed,”

the words “ subject to the control of the High Court ” shall be inserted.

5. In section 28 of the same Act—

Amendment of section 28 of the same Act.

(a) before the words “ Subordinate Judge,” in both places where they occur, the words “ District or” shall be inserted ;

(b) after the words “ rupees fifty ” the words “ or on the recommendation of the High Court up to any amount not exceeding rupees two hundred ” shall be inserted.

<sup>1</sup> The words “ within three years after the date on which this Act comes into force or ” were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, p. 219 ; for Proceedings in Council, see *ibid.*, 1885, Supplement, pp. 859, 897 and 1543.

<sup>3</sup> The word “ and ” and sub-section (2) were repealed by the second Repealing and Amending Act, 1914 (XVII of 1914), s. 3 and sch. II.

<sup>4</sup> The Madras Civil Courts (Amendment) Act, 1877, *supra*.

ACT No. V OF 1889.<sup>1</sup>

[THE CORONERS (MADRAS) ACT, 1889.]

[1st March, 1889.]

## An Act to abolish the Office of Coroner of Madras.

WHEREAS it is expedient to abolish the office of Coroner of Madras and for this purpose to amend the Coroners Act, 1871,<sup>2</sup> the Coroners Act, 1881,<sup>3</sup> and <sup>IV of 1871.</sup> <sup>X of 1881.</sup> <sup>V of 1898.</sup> <sup>3</sup>[the Code of Criminal Procedure, 1898]; It is hereby enacted as follows :—

**1.** This Act shall come into force on such day<sup>4</sup> as the Governor of Fort Commence-  
St. George in Council may, by notification in the Fort St. George Gazette, ment.  
appoint in this behalf.

**2.** For section 3 of the Coroners Act, 1871,<sup>2</sup> the following shall be substi- Amendment  
tuted, namely :— of the  
Coroners  
Act, 1871.

“ 3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay.”

**3.** (1) For the preamble to the Coroners Act, 1881,<sup>2</sup> the following shall Amendment  
be substituted, namely :— of the  
Coroners  
Act, 1881.

“ Whereas it is expedient to amend the Coroners Act, 1871, in manner hereinafter appearing : It is hereby enacted as follows :— ”

(2) [*Repeal of sections 2, 3 and 4 of Act X of 1881.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

**4.** (1) [*Repeal of section 1 (c), Act X of 1882.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

(2) Sections 171, 175 and 176 <sup>2</sup> of [the Code of Criminal Procedure, Amendment  
1898], shall, in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras be read as follows :— of Criminal  
Procedure.

“ 171. (1) An officer in charge of a police-station, on receiving information that a person— Inquiry into  
violent or  
suspicious  
death to be  
ordinarily  
conducted by  
officer in  
charge of  
police-  
station.

<sup>1</sup> Short title. “The Coroners (Madras) Act, 1889” was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. V, p. 1448; for Proceedings in Council, see *Ibid.* 1888, Pt. VI, p. 139, and *Ibid.* 1889, Pt. VI, pp. 1, 16, 17 and 42.

<sup>2</sup> These Acts do not now apply to the Presidency of Madras; as to them, see the Bengal Code, Ed. 1913, Vol. 1.

<sup>3</sup> These words in square brackets were substituted by the Repealing and Amending Act, 1903 (I of 1903), s. 3.

<sup>4</sup> The Act was brought into force on the 1st June, 1889—see Fort St. George Gazette, 1889, Pt. I, p. 335.

(b) has been killed by another, or by an animal, or by machinery, or by an accident, or

(c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the Commissioner of Police and, in the absence of any rule or order under the next following section to the contrary, proceed to the place where the body of such deceased person is, and there, in the presence of five or more respectable inhabitants of the neighbourhood, make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

“(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the office of the Commissioner of Police.

“(3) In any of the following cases, namely:—

(a) in any case in which the Local Government may by rule so require,

(b) in any case in which death appears to have been caused by violence or there is any doubt regarding the cause of death,

(c) in any other case in which the police-officer considers it expedient so to do,

he shall cause the body to be examined by a medical officer appointed in this behalf by the Local Government.

“(4) The police-officer may, by order in writing, summon five or more persons as aforesaid for the purpose of the investigation under this section, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

“(5) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

“175. (1) The Local Government may make rules, and the Commissioner of Police may from time to time make general or special orders consistent with those rules, defining—

(a) the circumstances in which an officer in charge of a police-station after giving intimation to the Commissioner of Police of any such event as is mentioned in clause (a), clause (b) or clause (c) of sub-section (1) of the last foregoing section, is not to proceed to discharge any of the further functions of such an officer under that section, and

(b) the circumstances in which, and in such circumstances the authority by whom, those further functions are to be discharged.

Power to make rules and orders with respect to investigations by other authorities than officers in charge of police-stations.

(2) The authority to whom the discharge of such further functions may be entrusted by rules or orders under sub-section (1) may be the Commissioner of Police or any of his Deputies or Assistants or any other police-officer of rank not below that of Inspector, and such authority, in discharge of those functions, may exercise any of the powers and shall perform the duties which, but for such rules or orders, might be exercised and should be performed by the officer in charge of the police-station.

"176. (1) The Chief Presidency Magistrate, or such other Presidency Magistrate as the Chief Presidency Magistrate may depute in this behalf, shall, when any person dies while in the custody of the police or in prison, and may in any other case mentioned in section 174. sub-section (1), clause (a), clause (b) or clause (c), hold an inquiry into the cause of death, either instead of, or in addition to, the investigation under either of the two last foregoing sections; and, where he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, and shall record any evidence taken by him in the course of the inquiry as nearly as may be in the manner prescribed in section 362.

Provisions with respect to inquiries by Presidency Magistrates and the disinterment of dead bodies.

"(2) Whenever the Commissioner of Police or a Presidency Magistrate considers it expedient, for the discovery of the cause of the death of a deceased person whose body has been interred, that an examination should be made of the dead body, such Commissioner or Magistrate, as the case may be, may cause the body to be disinterred and examined."

#### ACT No. XVI OF 1889.<sup>1</sup>

[THE CENTRAL PROVINCES LAND-REVENUE ACT, 1889.]

[29th October, 1889.]

An Act to amend the Central Provinces Land-Revenue Act, 1881<sup>2</sup> and the Central Provinces Local Self-government Act, 1883.<sup>2</sup>

XVIII of 1881.

WHEREAS it is expedient to amend the Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows:—

1. (1) This Act may be called the Central Provinces Land-revenue Act, 1889; and

Title and commencement.

(2) It shall come into force at once.

XVIII of 1881.

2. In this Act, unless there is something repugnant in the subject or context, the word "section" means a section of the Central Provinces Land-revenue Act, 1881.

Definition.

<sup>1</sup> This Act amends Act XVIII of 1881 and s. 41(1) of Act I of 1883 which are in force in the Taluqas of Nagur, Alhaka, and Cherla: see note to s. 1 of the former Act, *ante*.

For Statement of Objects and Reasons, see Gazette of India, 1889, Pt. V, p. 146 and for Proceedings in Council, see *ibid*, Pt. VI, pp. 121, 181.

<sup>2</sup> *Supra*.



**3. [Rep. Act XII of 1891.]**Amendment  
of section 4,  
clause (3).

**4.** In section 4, clause (3), after the words "proprietors as such of the village," the words "or to their transferees or assignees as such or to the patél," shall be inserted.

**5. [Rep. Act XII of 1898, s. 13.]**New clause  
inserted after  
section 4,  
clause (6).

**6.** After section 4, clause (6), the following shall be inserted, namely :—  
[ (6a) *Vide supra*, p. 128.]

Amendment  
of section 4,  
clause (7).

**7.** To section 4, clause (7), the words "but does not include a survey-number" shall be added.

New clause  
inserted after  
section 4,  
clause (8).

**8.** After section 4, clause (8), the following shall be inserted, namely :—  
[ (8a) *Vide supra*, p. 128.]

New clause  
substituted  
for section 4,  
clause (10)

**9.** For section 4, clause (10), the following shall be substituted, namely :—  
[ *Vide supra*, p. 128.]

New clauses  
inserted  
after section  
4, clause  
(13).

**10.** After section 4, clause (13), the following shall be inserted, namely :—  
[ (13a) *Vide supra*, p. 129.]

Amendment  
of section 4,  
clause (14).

**11.** For the *Explanation* to section 4, clause (14), the following shall be substituted, namely :—  
[ *Vide supra*, p. 129.]

**12.** [New section substituted for section 6. *Revenue-officers. Superseded by Act XIII of 1908, s. 1, infra.*]

New section  
inserted after  
section 18.

**13.** After section 18 the following shall be inserted, namely :—  
[18A. *Vide supra*, p. 134.]

Amendment  
of section 45.

**14.** In section 45, after the words "comprised in such area," the words "or who are in possession of the whole or any part of the land as gaontias or as thikadárs of Government land, or as raiyats who have accepted the assessment of a survey-number," shall be inserted.

Amendment  
of section 46.

**15.** To section 46 the following shall be added, namely :—  
[ *Vide supra*, p. 141.]

New section  
inserted after  
section 56.

**16.** After section 56 the following shall be inserted, namely :—  
[56A. *Vide supra*, p. 143.]

**17. [Rep. Act XII of 1898, s. 13.]**New sections  
inserted after  
section 67.

**18.** After section 67 the following shall be inserted, namely :—  
[67A to 67 I. *Vide supra*, p. 148.]

**19 and 20. [Rep. Act XII of 1898, s. 13.]**New clause  
inserted after  
section 94,  
clause (g).

**21.** After clause (g) of section 94 the following shall be inserted, namely :—  
[ *Vide supra*, p. 156.]

- 22.** After section 124 the following shall be inserted, namely —  
[124A. *Vide supra*, p. 163.] Insertion of  
new section  
after section  
124.
- 23.** In section 125, clause (a), for the words “subsequently to the pre-  
paration of the record-of-rights” the words “from time to time” shall be  
substituted. Amendment  
of section 125,  
clause (a).
- 24.** [*Rep. Act XII of 1898, s. 13.*]
- 25.** In section 135, after the words “mortgagees or farmers” the words  
“or, in the case of regularly settled raiyatwari villages, of the raiyats” shall  
be inserted. Amendment  
of section  
135.
- 26.** \* \* \* \* \*<sup>1</sup> after section 135 the following shall  
be inserted, namely :—  
[Chapter XA. *Vide supra*, p. 166.] Repeal of  
section 136  
and substitu-  
tion therefor  
of new provi-  
sions respect-  
ing partition.  
“136W. [*Repeal of Act XIX of 1863.*] *Repealed by Act XII of 1891.*
- 27.** (1) In the first paragraph of section 137, for the words “and mukad-  
dams” the words “Mukaddams and patéls” shall be substituted. Amendment  
of section  
137.  
(2) For the last paragraph of the same section the following shall be sub-  
stituted, namely :—  
[*Vide supra*, p. 171.]
- 28.** After section 143 the following shall be inserted, namely :—  
[143A. *Vide supra*, p. 174.] New section  
inserted after  
section 143.
- 29.** (1) In section 144, after the words “may make rules” the following  
shall be inserted, namely :—  
[*Vide supra*, p. 171.] Amendment  
of section  
144.  
(2) In the same section clauses (a), (b) and (c) shall be read as clauses (b)  
(c) and (d), respectively. \* \* \* \* \*
- 30.** [*Rep. Act XII of 1891.*]
- 31.** [*Rep. Act XII of 1891.*]
- 32.** After section 146 the following shall be inserted, namely :—  
[*Vide supra*, p. 175.] New section  
inserted after  
section 146.
- 33.** After section 147 the following shall be inserted, namely :—  
[147A. *Vide supra*, p. 175.] New section  
inserted after  
section 147.
- 34.** In section 148, for the words “and patwáris” the words “patwáris  
and village-watchmen” shall be substituted. Amendment  
of section  
148.
- 35.** In section 149, for the words “and patwáris” the words “and village-  
watchmen” shall be substituted. Amendment  
of section  
149.
- 36.** [*Rep. Act XII of 1891.*]
- 37.** For clause (13) of section 152 the following clauses shall be substi-  
tuted, namely :—  
[(13) & (13a) *Vide supra*, p. 178.] Amendment  
of section  
152, clause  
(13).
- 38.** In clause (14) of section 152, for the words “or mukaddam” the  
words “mukaddam, patél or village-watchman” shall be substituted. Amendment  
of section  
152, clause  
(14).

<sup>1</sup> Words repealed by Act XII of 1891 have been omitted.

New sections  
inserted after  
section 161.

**39.** After section 161 the following shall be inserted, namely :—

[161B. *Vide supra*, p. 180.]

Power to  
assign titles  
to officers  
appointed to  
make  
settlements.

**40.** Notwithstanding anything contained in section 29, the Chief Commissioner shall be deemed to have, and to have had, authority to assign to the Settlement-officer the title "Assistant Settlement-officer" and to the Chief Settlement-officer the title "Settlement-officer."

And whereas it is also expedient to amend the Central Provinces Local Self-government Act, 1883<sup>1</sup>; It is hereby further enacted as follows :— 1 of 1883.

Amendment  
of section  
41, Act I,  
1883.

**41.** In section 41, sub-section (1), of the said Act, for the words "has been made in any settlement-record previous to the passing of this Act;" the words "is made in any settlement-record" shall be substituted.

## THE MADRAS CITY CIVIL COURT ACT, 1892.

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16. Saving of original civil jurisdiction of High Court.
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18. Holidays and vacations.

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<sup>1</sup> *Supra*.

ACT No. VII OF 1892.<sup>1</sup>

[THE MADRAS CITY CIVIL COURT ACT, 1892.]

[12th August, 1892.]

## An Act to establish an additional Civil Court for the City of Madras.

WHEREAS it is expedient to establish an additional Civil Court for the City of Madras; It is hereby enacted as follows :—

1. (1) This Act may be called the Madras City Civil Court Act, 1892. Title.

" \* \* \* \* \*

2. In this Act, unless there is something repugnant in the subject or con- Definitions.  
text,—

(1) " City Court " means the Court established under the next following section :

(2) " City of Madras " means the area within the local limits for the time being of the ordinary original civil jurisdiction of the High Court :

(3) " High Court " means the High Court of Judicature at Madras : and

(4) " Small Cause Court " means the Court of Small Causes of Madras.

3. The Local Government may, by notification in the official Gazette, establish a Court, to be called the Madras City Civil Court, with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding two thousand five hundred rupees in value and arising within the City of Madras, except suits or proceedings which are cognizable—

(a) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(b) by the Court for the relief of insolvent debtors, or

(c) by the Small Cause Court.

4. The Local Government may, by notification in the official Gazette, appoint so many persons as it may think fit to be Judges of the City Court ; and may, for any misconduct, by a like notification, suspend or remove any Judge so appointed. Appointment, suspension and removal of Judges.

5. (1) Every person appointed a Judge of the City Court shall be, by virtue of his office, a Judge of the Small Cause Court with respect to cases cognizable by that Court. Judge of City Court to be Judge of Small Cause Court.

(2) Every such Judge shall be liable to perform any duties of a Judge of the Small Cause Court which the Chief Justice of the High Court may require him to perform.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 144 ; for Preliminary Report of the Select Committee, see Gazette of India, 1892, Pt. V, p. 9 ; for Further Report, see *ibid.* p. 40 ; and for the Final Report, see *ibid.* p. 59 ; for Proceedings in Council, see *ibid.* 1891, Pt. VI, p. 119. *ibid.* 1892, Pt. VI, pp. 6, 13, 20, 23, 37, 57 and 61.

<sup>2</sup> The word " and " and sub-section (2) were repealed by the Repealing and Amending Act, 1914 (XVII of 1914), s. 3 and Sch. II.

Powers of Judges when City Court consists of more than one Judge.

**6. When the City Court consists of more than one Judge—**

- (a) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force ;
- (b) the Local Government may appoint any one of the Judges to be the principal Judge ; and
- (c) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof.

Appointment, powers, duties and punishment of ministerial officers.

**7. (1)** The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, may from time to time, with the sanction of the Local Government, appoint as many clerks, bailiffs and other ministerial officers as may be necessary for the administration of justice by the Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.

(2) The officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as the said Judge or principal Judge may from time to time direct.

(3) The said Judge or principal Judge may, subject to the control of the High Court,—

- (a) suspend or remove any officer so appointed, or
  - (b) fine any such officer who is guilty of misconduct or neglect in the performance of the duties of his office.
- (4) Any fine imposed on an officer under sub-section (3) may be deducted from his salary.

Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.

**8.** All questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Valuation of immoveable property for jurisdictional purposes.

**9.** When the subject-matter of any suit or other proceeding is land or a house or a garden, its value for the purposes of the jurisdiction conferred on the City Court by this Act shall, subject to the other provisions of this Act, be fixed in manner provided by the Court-fees Act, 1870,<sup>1</sup> section 7, clause v. VII of 1870.

Process-fees.

**10.** Fees chargeable for serving or executing processes<sup>2</sup> issued by the City Court, or served or executed under its direction or control, shall be such as the High Court may prescribe with the approval of the Governor of Fort St. George in Council <sup>3</sup> \* \* \* \* \*

<sup>1</sup> Printed, General Acts, Vol. II.

<sup>2</sup> For fees prescribed for serving and executing processes issued by the Madras City Civil Court, see Fort St. George Gazette, 1892, Pt. 4, p. 1553.

<sup>3</sup> The words "and the sanction of the Governor-General in Council" were omitted by the Decentralization Act, 1914 (IV of 1914), s. 2 and Schedule.

- XIV of 1882. **11.** The powers conferred by Chapter XXXVI of the Code of Civil Procedure<sup>1</sup> on High Courts and District Courts as to the appointment of Receivers, may be exercised by the City Court or any Judge thereof. Appointment of Receivers.
- XV of 1882. **12.** In clause (a) of section 31 of the Presidency Small Cause Courts Act, 1882,<sup>2</sup> for the words "to the High Court" the words "to the Madras City Civil Court or the High Court of Judicature at Fort William or Bombay, as the case may be," shall be substituted. Amendment of Act XV of 1882, section 31.
- 13.** Whenever any suit or proceeding in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fees paid by the plaintiff shall be repaid to him by the Court. Repayment of half fees, on settlement before hearing.
- XIV of 1882. **14.** When, under section 13 of the Letters Patent for the High Court, dated the twenty-eighth day of December, 1865, or under section 25 of the Code of Civil Procedure,<sup>1</sup> the High Court has removed for trial by itself any suit from the City Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jurisdiction shall be payable in that Court in respect of the suit and proceedings therein: Allowance for fees paid in City Court in cases removed to High Court.
- Provided that, in the levy of any such fees which, according to the practice of the Court, are credited to the Government, credit shall be given to the plaintiff in the suit for any fee which in the City Court he has already paid under the Court-fees Act, 1870,<sup>3</sup> on the plaint.
- VII of 1870. **15.** (1) The Court authorised to hear appeals from the City Court shall be the High Court. Appeals.
- (2) The period of limitation for an appeal from a decree or order of the City Court shall be the same as that provided by law for an appeal from a decree or order of the High Court in the exercise of its original jurisdiction.
- 16.** Nothing in this Act contained shall affect the original civil jurisdiction of the High Court: Saving of original civil jurisdiction of High Court.
- Provided that—
- (1) if any suit or other proceeding is instituted in the High Court which, in the opinion of the Judge who tries the same (whose opinion shall be final), ought to have been instituted in the City Court, no costs shall be allowed to a successful plaintiff, and a successful defendant shall be allowed his costs as between attorney and client;
- (2) in any suit or other proceeding pending at any time in the High Court, any Judge of such Court may at any stage thereof make an order transferring the same to the City Court if in his opinion such suit or proceeding is within the jurisdiction of that Court and should be tried therein;

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), printed, General Acts, Vol. VI.

<sup>2</sup> Printed, General Acts, Vol. III.

<sup>3</sup> Printed, General Acts, Vol. II.

(3) in any suit or other proceeding so transferred, the Court-fees Act, VII of 1870, 1870,<sup>1</sup> shall apply, credit being given for any fees levied in the High Court.

Seal to be  
used.

**17.** The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the Local Government.

Holidays  
and  
vacations.

**18.** (1) The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the Local Government.

(2) Such list, when it has received such approval, shall be published in the official Gazette, and the said holidays and vacations shall be observed accordingly.

## THE CENTRAL PROVINCES TENANCY ACT, 1898.

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<sup>1</sup> Printed, General Acts, Vol. II.

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ACT No. XI OF 1898.<sup>1</sup>

[THE CENTRAL PROVINCES TENANCY ACT, 1898.]

[21st October, 1898.]

## An Act to consolidate and amend the Law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Central Provinces Tenancy Act, 1898. Short title, extent and commencement.  
 (2) It extends to all the <sup>2</sup>territories for the time being administered by the Chief Commissioner of the Central Provinces; and  
 (3) It shall come into force at once.  
 2. In this Act, unless there is anything repugnant in the subject or con- Definitions. text,—

(1) the expressions “agricultural year,” “málik-máikbúz,” “sír-land,” “survey-number,” “record-of-rights” and “village” have the meanings assigned to them, respectively, in the <sup>3</sup>Central Provinces Land-revenue Act, 1881, as from time to time amended;

(2) “arrear” means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable :

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 195; for Report of the Select Committee, see *ibid.*, 1898, Pt. V, p. 313, and for Proceedings in Council, see *ibid.*, 1897, Pt. VI, p. 224; 1898, Pt. VI, pp. 369 and 373.

<sup>2</sup> The Act with certain modifications is in force in the Taluqas of Nugur, Albaka and Cherla, which ceased to be under the administration of the Chief Commissioner of the Central Provinces and became subject to the Government of Madras in pursuance of Proclamation No. 545, dated the 15th April, 1909, issued by the Governor-General in Council under s. 4 of the Government of India Act, 1865, with effect from 1st July, 1909: see Regulation I of 1909, s. 3, *infra*.

<sup>3</sup> *Supra*.

(3) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions :

(4) "improvement" means, with reference to a holding, any work which adds to the letting-value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

*Explanation I.*—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes ; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture ; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord.

*Explanation II.*—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement :

(5) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land :

(6) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for special contract, would be, liable to pay rent for that land :

(7) "pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery":

(8) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him :

(9) "Revenue-officer" and "Settlement-officer" in any provision of this Act, mean, respectively, such Revenue-officer or Settlement-officer appointed under the Central Provinces Land-revenue Act, 1881, as from time to time amended, as the Local Government may, by notification in the local official Gazette, direct to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision : and

(10) "tenant" means a person who holds land of another person, and is, or, but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thikádár of proprietary rights :

*Explanation I.*—An inferior proprietor is not, as such, a tenant :

*Explanation II.*—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpúr District, is a tenant of the farmer or gaontia for the time being.

<sup>1</sup> *Supra.*

## CHAPTER II.

## OF TENANTS GENERALLY.

*A.—Classification of Tenants.*

3. There shall be five classes of tenants, namely :—

Classes of  
tenants.

- (1) absolute occupancy-tenants ;
- (2) occupancy-tenants ;
- (3) village-service-tenants ;
- (4) sub-tenants ; and
- (5) ordinary tenants.

*B.—Provisions relating to rent.*

4. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year. Presumption  
as to amount  
of rent pay-  
able.

5. Save as provided in sections 66 and 78, an order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent day, or, if it is made on the ground of increase, diminution or deterioration, of the holding, from the date of that increase, diminution, or deterioration or from any subsequent day. Date from  
which order  
fixing rent  
operates.

6. Rent shall be payable in such instalments and on such dates as the Local Government may, by notification in the local official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage. Time for  
payment of  
rents.

7. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Local Government may, by notification in the local official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others ; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent. Rents pay-  
able to a  
number of  
landlords.

8. (a) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant, Power to  
deposit rent  
in certain  
cases with  
Revenue-  
officer.

(b) when a tenant, in the case mentioned in section 7, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and,

(c) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money.

the tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable for the issue of the notice next hereinafter referred to.

Effect of  
depositing  
rent.

**9.** (1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(2) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims, or is entitled to, the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

Penalty for  
levy of any-  
thing in  
excess of rent  
by landlord.

**10.** A landlord who, except under any special enactment for the time being in force, levies from a tenant anything in excess of the rent legally payable shall, on the application of the tenant, be liable under the order of a Revenue-officer, not below the class of Deputy Commissioner, to pay as penalty such sum as the Revenue-officer thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value. Such sum shall be awarded to the tenant as compensation.

Presumption  
as to  
payments by  
tenant to  
landlord.  
Penalty for  
refusing  
receipt or  
giving defec-  
tive receipt.

**11.** Where rent is due, every payment by a tenant to his landlord shall, unless the tenant otherwise agrees, be presumed to be a payment on account of rent.

**12.** A landlord who refuses to grant a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made, or the amount paid, shall, on the application of the tenant, be liable, under the order of a Revenue-officer, to pay as penalty such sum, not exceeding double the amount or value of the rent so paid, as the Revenue-officer thinks fit. Such sum shall be awarded to the tenant as compensation.

Enhancement  
of rent when  
productive  
power of  
holding in-  
creased by  
landlord.

**13.** Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made since the present rent was fixed and in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

**14.** When the rent of any tenant has been enhanced under section 13 or was fixed at the current settlement with regard to an improvement made by or at the expense of the landlord, a Revenue-officer may, at any time, on the application of the tenant, modify or cancel the order for enhancement, or reduce such rent, on the ground that the effect of the improvement in increasing the productive power of the holding has diminished or ceased since the date of the order for enhancement or of the last modification of such order made under this section, or since the rent was fixed by the Settlement-officer, as the case may be.

Reduction of rent when effect of improvement ceases.

**15.** When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or by any other calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

Power to alter rent when holding is increased, diminished or deteriorated.

**16.** When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

Power to alter rent in case of new assessment.

(a) land-revenue is for the first time made payable in respect of the holding, or

(b) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

**17. (1)** In all cases in which a tenant, other than an ordinary tenant whose holding consists entirely of sir-land, or than a sub-tenant, pays rent for a holding in kind, or on the estimated value of a portion of the crop or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time to a Revenue-officer, to commute the rent to a fixed money-rent.

Commutation of rent payable in kind.

(2) On the receipt of the application, the officer, after giving notice of the application to the other party and hearing him, if he appears, may fix the sum to be paid as money-rent, and may, for reasons to be recorded by him in writing, order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so fixed.

(3) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.



Remission  
and suspen-  
sion of rent  
consequent  
on like treat-  
ment of land-  
revenue.

**18. (1)** Whenever from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by general or special order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land, and may distribute the amount so remitted or suspended amongst the tenants holding such land as may seem to him to be equitable, having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land-revenue :

Provided that, where the rent is taken by actual division of the produce, no portion of it shall be suspended under this section.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) No suit shall lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended, and, so long as a suit does not lie, such rent shall not be legally payable within the meaning of section 10.

(4) Where the payment of rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for bringing a suit for the recovery of the rent.

(5) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, as far as may be, to land of which the land-revenue has been wholly or in part released, compounded for or redeemed, in any case in which, if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, have been remitted or suspended.

(6) The provisions of this section relating to rent shall apply also, as far as may be, to revenue payable by *málik-mákbúzás*, to revenue and *málikáná* payable by inferior proprietors, and to *thíká-jamás* payable by *thíkádárs* of proprietary rights, and the provisions of section 10 apply in cases where revenue, *málikáná* or *thíká-jamá* has been collected in contravention of this section.

#### *C.—Commissions for dividing or estimating Crops.*

Commission  
for dividing  
or estimating  
crops.

**19.** Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

**20.** (1) When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section 19, the officer may, in his discretion, direct the Commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

Appoint-  
ment of as-  
sessors, etc.

(2) The Commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions.

**21.** (1) If in any division under the foregoing provisions either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

Remedy for  
error in divi-  
sion.

(2) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

**22.** (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

Procedure  
when crop  
has been es-  
timated or  
appraised.

(2) The Revenue-officer shall consider the Commissioner's report, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement, and that order shall be final.

*D.—Of the Landlord's Lien on the Produce of a Holding.*

- 23.** In sections 24 to 30 (both inclusive) the produce of a holding means—
- (a) crops and other products of the earth standing or ungathered on the holding;
  - (b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Definition  
of "produce  
of a hold-  
ing."

**24.** Where an arrear of rent is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding:

Power of  
landlord, by  
notice, to  
prohibit re-  
moval of  
produce

Provided that—

*first*, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Civil Court; and

*secondly*, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

Effect of instituting suit for rent while notice is in force.

**25.** If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

Right to reap, etc., produce not affected.

**26.** A notice under section 24 shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Contents and service of notice; time for which it remains in force.

**27. (1)** Every notice under section 24 shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount.

(2) The notice shall be served on the person in charge of the produce, and shall, subject to the provisions of section 25, remain in force until the expiration of thirty-five days from the date of service of the notice, or, if the rent specified in the notice is paid previously to the expiration of such thirty-five days, until such rent is paid.

Procedure when produce is under attachment.

**28. (1)** If the produce of the holding on which the arrear is due is under attachment by order of a Civil Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

- (a) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application; and
- (b) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale in the first instance, to satisfy the claim.

(2) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict between rights of superior and inferior landlord. Penalty for illegal distraint by landlord, and for illegal removal of produce.

**29.** Where land is sublet and any conflict arises under sections 24 to 28 (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

**30. (1)** Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and,

where a notice in respect of the produce of a holding has been served under section 27 and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets

the removal of the produce, except for any of the purposes mentioned in section 26 shall, on the application of either landlord or tenant, be liable under the order of a Revenue-officer to fine which may extend to five hundred rupees.

V of 1898.

(2) Nothing in this section, and, except as provided in section 546 of the <sup>1</sup>Code of Criminal Procedure, 1898, no proceeding under this section shall affect the right of any person to recover compensation in a civil suit.

*E.—Of Improvements and Compensation therefor.*

**31.** (1) In respect of the holding of an absolute occupancy-tenant or occupancy-tenant, or of the holding of an ordinary tenant which does not consist entirely of sîr-land, the tenant shall be entitled to make improvements. Right to make improvements.

(2) If the landlord of any such holding as is referred to in sub-section (1) desires that any improvement be made in respect of the holding, he may deliver, or cause to be delivered, to the tenant a request in writing calling upon him to make the improvement within a reasonable time, and, if the tenant is unable or neglects to comply with that request may, subject to such rules of procedure as the Local Government may, by notification in the local official Gazette, prescribe in this behalf, make the improvement himself.

(3) In respect of the holding of an ordinary tenant, which consists entirely of sîr-land, the landlord shall be entitled to make improvements.

**32.** (1) If a tenant, or the person under whom he claims, has made an improvement in respect of his holding in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, he shall not be ejected until he has received compensation for the improvement, unless the improvement was begun by him after the institution of the proceedings which resulted in the decree or order for his ejection. Liability to pay to tenant on ejection compensation for improvements.

(2) A Civil Court making a decree for the ejection of a tenant, or a Revenue-officer ordering ejection in execution of a decree for arrears or otherwise, shall determine the amount of compensation (if any) due to him under this section, and shall stay execution until the landlord deposits the amount less any arrears of rent or costs that have been ascertained by the proceedings for such ejection to be due to him from the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before the commencement of this Act, in lands other than sîr-land, shall be deemed to have been made in accord-

<sup>1</sup> General Acts, Vol. V.

ance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment  
of compensa-  
tion.

**33.** (1) The Local Government may, by notification in the local official Gazette, make rules requiring the Civil Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 32 for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section 32 for an improvement, regard shall be had—

- (a) to the amount by which the letting-value or the produce, of the holding, or the value of that produce, is increased by the improvement;
- (b) to the labour and capital required for the making of such an improvement; and
- (c) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

(3) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Avoidance of  
provisions  
barring right  
to make, or  
be compen-  
sated for,  
improve-  
ments.

**34.** An entry in the record-of-rights of any village or a stipulation in a contract providing—

- (a) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, such improvements on his holding as he is entitled to make under this Act, or
- (b) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

#### *Miscellaneous.*

Surrender of  
holdings.

**35.** (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding :

Provided that, notwithstanding such surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(2) In the following cases the Court shall presume that notice was duly given as required by the proviso to sub-section (1), that is to say :—

- (a) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;
- (b) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and

(c) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

(3) A tenant of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpūr District, shall be deemed to have surrendered his holding if he refuses to agree to the rent fixed under this Act for the holding, but shall not continue liable under sub-section (1) for the rent of his holding.

(4) Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding :

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land shall be excluded.

**36.** (1) If an occupancy-tenant surrenders his holding under section 35, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs may, on application to a Revenue-officer, made at any time within two years after the date of the surrender, be placed in possession of the holding, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the surrendering tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation. Surrender of occupancy-tenant's holding.

(2) As among several persons so entitled and desirous of being placed in possession of the holding, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the holding if the tenant had died.

(3) When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the surrender to appear before him on a date to be fixed ; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desired to be placed in possession is first entitled to be so placed.

(4) Sub-sections (1), (2) and (3) shall not apply in cases where, subject to any rules made by the Local Government in this behalf, a Revenue-officer has decided, after an inquiry made on the application of either landlord or tenant that the surrender is *bona fide* and has not been made with the object of evading the provisions of section 45 or section 46.

**37.** When a person, at the time of taking a thiká or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thiká or farm. Tenant taking thiká or farm.

Provisions regarding tenant-right not applicable to tenant of land in reserved forests.

**38.** Nothing in this Act regarding the rights of an absolute occupancy-tenant, an occupancy-tenant or an ordinary tenant shall be deemed to apply to the tenant of any land situate within the limits of any forest-land or waste-land which has been declared to be a reserved forest under the<sup>1</sup> Indian Forest Act, 1878.

VII of 1878.

### CHAPTER III.

#### OF ABSOLUTE OCCUPANCY-TENANTS.

Definition of "absolute occupancy-tenant."

**39.** Every person who, at the commencement of this Act, is the tenant of any holding in respect of which he, or a person whose rights he has acquired, had been recorded in any record-of-rights made before the first day of January, 1884, as an "absolute occupancy-raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed for period of settlement.

**40.** (1) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlement, except under the provisions of section 13, section 14, section 15 or section 17.

(2) The rent payable by any such tenant in respect of his holding at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which his holding is comprised.

Right heritable and transferable after notice to landlord, who may claim to purchase.

**41.** (1) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(2) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(3) If the intended transfer is by sale or gift, the landlord may, within the said period of one month--

(a) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix; or

<sup>1</sup> General Acts, Vol. II.

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(5) When the right of an absolute occupancy-tenant in his holding is sold or is foreclosed by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by clause (a) of sub-section (3).

(6) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and, if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be voidable at the instance of the landlord.

(8) If a person to whom an absolute occupancy-tenant has transferred possession of his holding in contravention of the provisions of this section be ejected by the landlord, the tenant may apply to a Revenue-officer within one year of the ejection of such person to be reinstated in possession of the holding, and the Revenue-officer may order him to be reinstated in possession on his depositing within a stated period, for payment to the landlord, the costs incurred by the landlord in procuring the ejection. If the tenant fails to make such application within one year of the ejection, or if he fails to deposit such costs within the period stated, his tenancy shall be deemed to have lapsed.

42. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

43. The rent of the holding of an absolute occupancy-tenant shall be the first charge on that holding, which shall, subject to the other provisions of this Act, be liable to sale in execution of a decree for arrears of the rent thereof.

Absolute occupancy-tenant not liable to ejection. Rent first charge on holding and holding saleable in execution of decree for arrears of rent.

#### CHAPTER IV.

##### OF OCCUPANCY-TENANTS.

44. Every tenant who, on the first day of January, 1884, had held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is at the commencement of this Act, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nímar and Sambálpúr, shall be deemed to be an occupancy-tenant of that land:

Definition of "occupancy-tenant."



Provided that the land is not—

- (a) sîr-land, or
- (b) held in lieu of wages, or
- (c) held, in any district other than Sambalpûr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired or that the tenant shall quit the land at the termination of the lease.

*Explanation I.*—The occupation of any person from whom the tenant inherited or lawfully acquired his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

*Explanation II.*—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him, is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

**45. (1)** Notwithstanding any agreement to the contrary and save where sanction has been given under sub-section (2), a proprietor who, after the commencement of this Act, temporarily or permanently loses (whether under decree or order of a Civil Court or a Revenue-officer or otherwise) or transfers his right to occupy sîr-land as a proprietor, shall at the date of such loss or transfer become an occupancy-tenant of that sîr-land, and the rent payable by him as such shall be the sum determined at the current settlement as the rental value of such land, unless and until, on the application of either landlord or tenant, the rent is fixed by a Revenue-officer.

(2) An application by a proprietor for sanction to transfer his sîr-land without reservation of the right of occupancy provided for in sub-section (1) may be made to such Revenue-officer, not being below the class of Deputy Commissioner, as the Local Government may appoint for this purpose. Such officer shall sanction transfer in cases in which he is satisfied that the transferor is not wholly or mainly an agriculturist or that the property is self-acquired or has been acquired otherwise than by inheritance within the twenty years last preceding. In other cases he shall transmit the application to the Local Government, which may sanction the transfer in whole or in part, on the ground that—

- (a) the transferor, though wholly or mainly an agriculturist, will have other permanent means of subsistence after transferring the right to occupy his sîr-land, or
- (b) that the area of the sîr-land is too large for the transferor to manage after he has transferred his proprietary rights, or
- (c) that for any other reason the transfer ought to be permitted.

The Local Government may make rules for the guidance of Revenue-officers dealing with applications under this sub-section.

Accrual of occupancy-tenant-right in sîr-land on transfer of right to occupy as proprietor.

Grant of sanction in certain cases to transfer of the right to occupy sîr-land.

III of 1877. (3) Notwithstanding anything contained in the<sup>1</sup> Indian Registration Act, 1877, no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer or surrender the rights of a proprietor in his sîr-land, without reservation of the right of occupancy provided for in sub-section (1), or to be an agreement for such transfer or surrender, unless sanction to such transfer or surrender has been endorsed on the document in such manner and by such authority as the Local Government may direct.

Prohibition in certain cases of registration of documents transferring right to occupy sîr-land.

(4) If there are two or more sharers in any sîr-land, and one of them becomes an occupancy-tenant in it under this section, his previous share in such sîr-land shall, on application made by him or by his landlord, be divided off by a Revenue-officer, and his rights as occupancy-tenant shall be limited to the land comprised in such share.

Partition of undivided share in sîr-land.

(5) The accrual of occupancy-tenant-right under sub-section (1) shall not affect the rights of an ordinary tenant holding any part of the sîr-land at the time of such accrual.

Saving of rights of ordinary tenants.

<sup>2</sup>(6) Nothing in this section shall affect a document duly registered before the commencement of this Act; and, on any surrender or transfer such as is described in sub-section (1) being made, decreed or ordered in pursuance of such a document, the rights of the parties to occupy the sîr-land shall accrue as if this Act had not been passed.

Saving of prior registered documents.

(7) No Civil Court shall question the validity of an order passed under this section granting or refusing sanction to the transfer of the right to occupy sîr-land as a proprietor.

Bar of jurisdiction of Civil Courts.

(8) Nothing in this section shall apply to "bhogra" land.

Exception of bhogra.

*Explanation.*—For the purposes of this section a transfer includes a mortgage and a lease.

**46.** (1) When an occupancy-tenant dies his right in his holding shall devolve as if it were land:

Devolution of occupancy-right.

Provided that, except in the districts of Chánda, Nimár and Sambalpûr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding or unless failing any such co-sharer, he held land, or was permanently resident, in the village in or from which the holding is cultivated, and is in the male line of descent from an ancestor who occupied the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an occupancy-tenant in his holding, nor shall such right be sold in execution of any decree or order.

Exemption of occupancy-rights from Court sales.

(3) No occupancy-tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his

Prohibition of transfer of occupancy-rights.

<sup>1</sup> See now the Indian Registration Act, 1908 (XVI of 1908), General Acts, Vol. VI.

<sup>2</sup> This sub-section was substituted for the original sub-section (6) by Act XXI of 1899, s. 2, with effect from the commencement of this Act (XI of 1898). For Act XXI of 1899, see *infra*.

right in his holding or in any portion thereof, and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections :

Provided that an occupancy-tenant may transfer his right of occupancy to any person who, if he survived the tenant, would inherit the right of occupancy, or to any person in favour of whom as a co-sharer the right of occupancy originally arose, or who has become by succession a co-sharer therein :

Provided, also, that nothing in this section shall affect the right of the Government to sell the right of an occupancy-tenant in his holding for the recovery of an advance made to him under the 'Land Improvement Loans Act, 1883, or the 'Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding. XIX of 1883. XII of 1884.

Prohibition of contracts for future sub-leases.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof ; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of registration of documents transferring occupancy-rights.

(5) Notwithstanding anything contained in the <sup>2</sup>Indian Registration Act, 1877, no officer empowered to register documents shall admit to registration any document which purports to transfer the right of an occupancy-tenant in his holding or in any portion thereof, unless the document recites that the transferee is a person who, if he survived the tenant, would inherit the right of occupancy, or is a person in favour of whom as a co-sharer the right of occupancy originally arose or who became by succession a co-sharer therein. III of 1877.

Rights of certain persons to apply to set aside transfers.

47. (1)\* If an occupancy-tenant transfers any portion of his right in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer, made within two years from the date on which in pursuance of the transfer the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

Procedure on application.

48. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right

\* General Acts, Vol. III.

<sup>2</sup> See now the Indian Registration Act, 1908 (XVI of 1908), General Acts, Vol. VI.

equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed : and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide whom from among such of them as desire to be placed in possession is first entitled to be so placed :

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and prays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

**49.** The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

**50.** (1) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section 49 shall not be altered during the currency of any settlement except under section 13, section 14, section 15 or section 17.

(2) The rent payable in respect of his holding by a tenant in any of those districts at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which that holding is comprised.

(3) Subject to the provisions of sections 13, 14, 15 and 17, the rent payable by any such tenant in respect of a holding acquired by him after the commencement of this Act shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquired that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say :—

- (a) in the districts of Chánda and Nimár, the rate which the Local Government has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the current settlement ;
- (b) in the district of Sambalpúr, the average rate at which at the current settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

**51.** The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency of a settlement on the application of the landlord to a Revenue-officer, be enhanced, subject to any rules made under this Act for the local area in which the holding is situate and for the time being in force :

Rent of occupancy-tenant to be fixed at settlement. Fixation of rents during currency of settlement in Chánda, Nimár and Sambalpúr.

Enhancement during settlement in other districts.

Provided that—

- (a) an application under this section shall not be entertained when, within the ten years immediately preceding the application, the rent of the holding has been fixed at any settlement or under any of the other provisions of this Act, except those of sections 13, 14 or 15, or a suit or application to enhance it has been dismissed on the merits; and
- (b) no order shall be made on any such application which is inconsistent with any contract made after the current settlement and still in force, such contract being consistent with this Act.

Grounds for  
ejection.

**52.** Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be rejected from his holding by his landlord as such except—

- (a) as hereinafter provided for arrears of rent; or
- (b) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

Tenant  
changing  
land in  
accordance  
with village-  
custom.

**53.** A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant  
changing  
land in other  
cases.

**54.** If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

## CHAPTER V.

### OF VILLAGE-SERVICE-TENANTS.

Definition of  
"village-ser-  
vice-tenant."

**55.** A tenant of a holding who is recorded in the papers of the current settlement of the area in which the holding is comprised as holding his land rent-free or on favourable term on condition of rendering village-service is a village service-tenant.

Devolution  
and transfer  
of village-ser-  
vice-tenant's  
right.

**56. (1)** When a village-service-tenant dies, resigns or is lawfully dismissed, his right in his village-service-holding shall pass to his successor in office:

Provided that the Local Government may, by general or special order, direct that, where, on the resignation, dismissal or death of a village-watchman or patwari, his successor in office is not his heir the village-service-tenant shall cease, in which case the holding shall be retained in occupancy-tenant right by the late village-service-tenant or shall devolve in occupancy-tenant right on his heir, as the case may be, at a rent which for the remainder of the term of the current settlement shall be that determined at such settlement as the rental value of the holding.

(2) A transaction by which a village-service-tenant attempts to effect a transfer of his interest in his village-service-holding by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year shall be void, and the village-service-tenant shall be liable to be ejected for such attempt.

(3) The right of a village-service-tenant shall not be sold in execution of a decree.

**57.** If a village-service-tenant is unable to render the service which he is bound to render, he shall provide a competent person to render it for him.

*Obligation of village-service-tenant to provide substitute. Grounds on which a village-service-tenant may be ejected.*

**58. (1)** A village-service-tenant shall not be ejected from his holding except in execution of an order for ejectment passed by a Revenue-officer on one of the following grounds, namely :—

- (a) that the tenant has attempted to effect a transfer of his holding in contravention of section 56, sub-section (2) ;
- (b) that the tenant has ceased to render the service which he is bound to render, or has failed to render it properly or, being unable to render it himself, has failed to provide a competent person to render it as required by section 57 ;
- (c) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which, by local custom or the provisions of the village wajib-ul-arz, renders him liable to be dismissed from office ;
- (d) that the tenant has resigned, or been dismissed from, his office.

(2) When a village-service-tenant is ejected from his holding under this section, or when he dies or resigns or is dismissed from his office, a Revenue-officer may, subject to any order issued under the proviso to section 56, sub-section (1), place his successor in office in possession of the holding; and when a village-service-tenant is ejected from, or loses possession of, his holding otherwise than in accordance with this section, a Revenue-officer may re-instate him in the possession of his holding and eject any transferee or trespasser who may be in wrongful possession thereof.

## CHAPTER VI.

## OF SUB-TENANTS.

Definition of  
"sub-  
tenant."

**59.** A tenant who is not an absolute occupancy-tenant or an occupancy-tenant and who holds land from another tenant, or from a *málik-mákbúzá*, or from the holder of a survey-number, is a sub-tenant of that land.

Tenure  
according to  
agreement.

**60.** A sub-tenant shall, subject to the provisions of sections 6, 15 and 16, hold on such terms as may be agreed upon between him and his landlord :

Provided that, notwithstanding any agreement to the contrary, a lease granted to a sub-tenant by an occupancy or an ordinary tenant shall not be valid for a period exceeding one year.

Power to  
declare  
sub-tenants  
in certain  
cases to have  
rights of  
ordinary  
tenants.

**61.** (1) In any local area in which the Local Government may, by notification in the local official Gazette, declare this section to be in force, a sub-tenant holding from a tenant who is proved to the satisfaction of a Revenue-officer or Settlement-officer to habitually sub-let the land held by the sub-tenant and to manage it solely with a view to the obtaining of rent may, subject to such rules as the Local Government may prescribe, be declared by such Revenue-officer or Settlement-officer to have all the rights conferred by this Act on an ordinary tenant, and shall thereupon be deemed to have such rights both as against the sub-letting tenant and as against the landlord from whom the latter holds :

Provided that no such declaration shall be made within one year after the commencement of this Act or in the case of a sub-tenant holding under a lease registered before the commencement of this Act or until an opportunity has been given to the sub-letting tenant to show cause against it.

(2) When a sub-tenant has been declared under this section to have the rights of an ordinary tenant, so much of the rent payable by him as is equal to the rent payable to the proprietor by the tenant from whom he holds on account of the land sub-let to him shall be rendered by him to the proprietor direct, and the balance shall be rendered by him to the tenant from whom he holds.

(3) If a tenant regarding whose land a declaration under this section has been made dies without heirs or surrenders his holding, the sub-tenant shall be deemed to hold direct from the landlord at the total rent paid by him for the land at the time of such death or surrender.

## CHAPTER VII.

## OF ORDINARY TENANTS.

Definition of  
"ordinary  
tenants."

**62.** (1) Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant, or a village-service-tenant or a sub-tenant, is an ordinary tenant.

(2) In any local area in which the Local Government may, by notification in the local official Gazette, declare that the provisions of this sub-section are in force, where a person cultivates land not being sîr-land under an agreement made with the proprietor of the land and purporting to be an agreement for the cultivation of the land by such person and such proprietor in partnership, such person is an ordinary tenant of the land so cultivated by him, and, notwithstanding any contract to the contrary, the rent payable by him for the land shall be fixed by a Revenue-officer on application made by him or his landlord.

**63.** (1) A Settlement-officer shall, unless the Local Government otherwise directs, fix the rents payable by the ordinary tenants of a mahâl other than ordinary tenants whose holdings consist entirely of sîr-land, and, on and from the date on which the land-revenue assessment takes effect, the landlord shall be entitled to recover only the rents so fixed.

Landlord's right to recover rents determined at settlement as payable by ordinary tenants.

(2) The rents fixed under sub-section (1) shall be recorded in the proceedings of the Settlement-officer, and a copy of the record shall be granted free of expense to the landlord.

(3) When by reason of the receipt by the landlord of any consideration, whether in money or otherwise, a tenant is holding at a rent lower than that fixed by the Settlement-officer under sub-section (1), the Settlement-officer may, notwithstanding anything in this Act, declare him to be entitled to hold at such lower rent,—

(a) if the term is fixed by contract, for the term so fixed or for any shorter period ;

(b) in other cases, for such term as the Settlement-officer, having regard to the circumstances, fixes as fair and equitable ;

and the term for which the tenant is declared to be so entitled shall be entered in the record made under sub-section (2) :

Provided that in no case shall the tenant be entitled to hold at such lower rent for a period longer than that for which the settlement is being made, and, at the expiry of the settlement, he shall not be entitled to a continuance of the privilege.

**64.** When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sîr-land and whose rent is not fixed by an agreement in writing, and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant through a Revenue-officer a notice of the enhancement not less than six months or more than twelve months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Notice of enhancement to be served through Revenue-officer.

**65.** (1) If, within the period of one month from the service of a notice under the last foregoing section, the tenant on whom the notice has been served presents to the Revenue-officer issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed

Liability of tenant to ejectment in default of his agreeing to



enhancement.

to have agreed to pay that rent from the commencement of the agricultural year next following.

(2) If the tenant does not, within the said period of one month, present to the Revenue-officer a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, apply to the Revenue-officer to eject the tenant.

Procedure in ejectment-suit.

**66.** (1) If, when an application has been made under sub-section (2) of the last foregoing section, the tenant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(2) If the tenant fails to appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Revenue-officer shall determine what rent is fair and equitable for the holding: Provided that, save where in the Revenue-officer's opinion the existing rent is merely nominal, the rent so determined shall not exceed the existing rent by more than thirty-three per cent.

(3) If the tenant agrees to pay the rent so determined, he shall be entitled to remain in occupation of the holding at that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(4) If the tenant does not agree to pay the rent determined under sub-section (2), the Revenue-officer may make an order for his ejectment, subject to the provisions of sections 88 and 89 and subject to the deposit by the landlord, within a month from the date of the order, of the amount of compensation (if any) determined as due to the tenant under section 32. If such amount is not so deposited, the order for ejectment shall become void.

Rent of ordinary tenant regulated by agreement.

**67.** An ordinary tenant shall, subject to the provisions of sections 13, 14, 15, 16, 63, 66 and 78, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Fresh proceeding not to be taken for seven years.

**68.** When the rent of a tenant has been fixed by a Settlement-officer under section 63, or where a tenant has agreed to pay an enhanced rent for his holding under section 65, or when a tenant is holding at a rent fixed as fair and equitable under section 66 or section 78, or when a rent has been agreed upon by contract or consent between the landlord and his tenant in respect of any holding, or when an order under section 66 to eject a tenant from his holding has become void from failure of the landlord to deposit the amount of compensation (if any) determined as due to the tenant under section 32, no notice of enhancement under section 64 shall be served on such tenant in respect of such holding, nor shall any further enhancement, by contract or consent or otherwise, in respect of such holding be permissible, for a period of seven years from the date on which the settlement made by the Settlement-officer took effect, or from the date of such fixation, agreement,

contract or consent, or from the date of such order for ejectment becoming void, as the case may be :

Provided that, where a tenant is holding land under a special contract with his landlord at a favourable rent for a term of years in consideration of temporary deterioration, or of the labour or expense involved in the reclamation by such tenant of the land from waste, nothing in this section shall be construed to prevent a fair rent being fixed or agreed upon after the expiration of the term of such contract.

**69.** Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

Grounds on which an ordinary tenant may be ejected.

- (a) as provided in the case of an occupancy-tenant by section 52 ;
- (b) in accordance with the provisions of section 66 ;
- (c) in execution of a decree for ejectment passed on the ground that his holding consists entirely of sîr-land.

**70. (1)** When an ordinary tenant dies, his right in his holding shall devolve as if it were land :

Devolution of ordinary tenancy.

Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an ordinary tenant in his holding, nor shall such right be sold in execution of any decree or order.

Exemption of ordinary tenant-rights from Court sales.

(3) No ordinary tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right or holding or any portion thereof ; and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections :

Prohibition of transfer of ordinary tenant-rights.

Provided that nothing in this sub-section shall affect the right of the Government to sell the right of an ordinary tenant in his holding for the recovery of an advance made to him under the 'Land Improvement Loans Act, 1883, or the 'Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding.

XIX of 1883.  
XII of 1884.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof ; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of contracts for future sub-leases.

(5) Notwithstanding anything contained in the 'Indian Registration Act, 1877, no officer empowered to register documents under that Act shall admit

III of 1877.

Prohibition of registration of documents

<sup>1</sup> General Acts, Vol. III.

<sup>2</sup> See now the Indian Registration Act, 1908 (XVI of 1908), General Acts, Vol. VI.

transferring  
ordinary  
tenant-rights.  
Right of  
certain  
persons to  
apply to set  
aside  
transfers.

to registration any document which purports to transfer the right of an ordinary tenant in his holding or in any portion thereof.

**71.** (1) If an ordinary tenant transfers any portion of his rights in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer made within two years from the date on which, in pursuance of the transfer, the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

Procedure on  
application.

**72.** When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desire to be placed in possession is first entitled to be so placed:

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made, and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

Obligation of  
landlord to  
confer  
occupancy  
rights on  
ordinary  
tenant.

**73.** (1) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to two-and-a-half times the annual rent payable in respect of the holding, together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of the holding; and, when those rights have so been conferred, the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section 51, at the rate at which rent was payable by the tenant at the date of the request and tender:

Provided that the tenant may, for the purposes of any such request and tender, and the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer, or during the progress of settlement-operations to a Settlement-officer, to fix the rent of the holding for the purposes of this section: and, if it is proved to the satisfaction of the officer that the rate of rent payable in respect of the holding is greater or less than the rate usually paid by ordinary tenants of holdings situate in the village or vicinity for land of similar quality with like advantages, the officer may fix the rent at the latter rate, and the rent so fixed shall for the purposes of this section be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant:

Provided, further, that, if the application is made otherwise than during the progress of settlement-operations, nothing in this section shall be construed to empower a Revenue-officer to alter a rent within seven years of its having been fixed under any of the provisions of this Act, except on the ground that some such change as is described in section 15 has since occurred so as to render the rent so fixed no longer a fair rent.

(2) If a landlord to whom a request and tender are made by a tenant under sub-section (1), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the Court of a Revenue-officer, or, during the progress of settlement-operations, of a Settlement-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(3) The officer so applied to, after giving notice of the application to the landlord and hearing him, if he appears, and after making such inquiry as he thinks necessary, may execute any instrument required for conferring the rights of an occupancy-tenant in respect of the holding upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(4) Every person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of sir-land.

## CHAPTER VIII.

### JURISDICTION AND PROCEDURE.

**74.** The Local Government may direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the <sup>1</sup>Code of Civil Procedure, but in such other registers as it may prescribe.

Power to direct that suits between landlords and tenants be entered in separate registers.

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

Plaint in  
such suits.

**75.** (1) In suits between landlords and tenants as such, the plaintiff shall, in addition to the matters mentioned in section 50 of the Code of <sup>1</sup>Civil Procedure, specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable. XIV of 1882.

(2) When the land to which the suit relates comprises parts of numbered fields or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practi-  
tioners' fees  
not allowed  
unless for  
special  
reasons.  
Set-off when  
allowed in  
suits for  
arrears.

**76.** In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

**77.** No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Procedure  
when  
ordinary  
tenant in  
suit pleads  
excessive  
rent.

**78.** (1) If in any suit in which the defendant is an ordinary tenant whose holding does not consist entirely of sîr-land the tenant appears and, at any time before a decree is passed, pleads that his rent is excessive, the Court shall inquire into the circumstances of the rent.

(2) If the Court finds that the rent payable by the tenant has been enhanced by contract or consent above the rent determined by a Settlement-officer at the current settlement or by a Revenue-officer under this Act, or, when not so determined, above the rent at which the holding was first taken up by the tenant, or, if the rent payable was determined by a Settlement-officer in proceedings taken before the commencement of this Act only after the landlord had refused to comply with the request of the Settlement-officer to reduce it, the Court may stay proceedings and refer the case to a Revenue-officer, who shall thereupon fix what rent is fair and equitable for the holding. If the rent so fixed is equal to or more than the rent previously payable, the Court shall decree the arrears claimed and proved. If the rent so fixed is less than the rent previously payable, the Court shall decree against the tenant arrears of rent on account of any year only to the extent of the amount (if any) by which his payments for that year fell short of the rent so fixed. The tenant shall be entitled to remain in occupation at a rent fixed under this sub-section from the commencement of the agricultural year next following the date of the institution of the suit.

(3) If the Court finds that the rent, in respect of which the plea is made by the tenant, was not enhanced or determined in the manner described in sub-section (2), but was the rent at which the tenant first took up the holding from the landlord, the Court shall pass a decree for such sum as may be due at the rent so payable, but may, before or after passing the decree, refer

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

the case to a Revenue-officer, who shall thereupon fix what is a fair and equitable rent for the holding, and, if the tenant pays the amount decreed within one month of the date on which the rent is so fixed, he shall be entitled to remain in occupation of his holding at the rent so fixed with effect from the commencement of the agricultural year next following the date of the institution of the suit.

*Explanation I.*—Nothing in this section shall be construed to authorise a Revenue-officer to determine a rent higher than that payable by the tenant at the date of the institution of the suit except from the commencement of the agricultural year next following the date of the institution of the suit, and on the formal application of the landlord.

*Explanation II.*—A statement made during the progress of settlement-operations by the Settlement-officer, and contained in any return or report prescribed by the Local Government, to the effect that a landlord refused to reduce any rent, shall be conclusive proof of such refusal.

**79.** When the land in respect of which an application is made under section 50 or section 51, or for which a fair rent is to be determined under section 66 or section 78, has been improved, in accordance with the provisions of this Act, by the agency, or at the expense, of the tenant, and such improvement was made during the term of the current settlement or the term of the settlement immediately preceding it, the quality and advantages of the land, as cultivated land, shall, notwithstanding anything contained in any contract or record-of-rights to the contrary, be deemed, for the purposes of any such section as aforesaid, to be the quality and advantages which the land would have had and enjoyed if the improvement had not been made. Tenants' improvements how to be treated in fixing rents.

**80.** In suits for arrears, interest on the arrears may be allowed up to the date of institution at such rate, not exceeding twelve per cent. per annum, as the Court thinks fit. Interest on arrears.

**81.** A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class as defined in the <sup>1</sup>Central Provinces Civil Courts Act, 1885, shall not be subject to appeal, unless— No appeal in certain suits for arrears.

XVI of 1885.

- (a) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or
- (b) a question relating to a title to land or some interest in land has been determined as between parties having conflicting claims thereto.

**82.** An application for the execution of a decree for an arrear of rent by sale of the holding in respect of which the arrear accrued or by ejectment of the tenant shall contain a statement showing the tahsil and village in which the holding is situate, the numbers borne in the village rent-roll by the fields Application for execution by sale of holding or by ejectment.

<sup>1</sup>Act XVI of 1885 was repealed by the Central Provinces Courts Act, 1904 (II of 1904).

constituting the holding, the rent annually payable, and the years in which the decreed arrears accrued.

Arrears decreed not to be on current year's account.

**83.** No such application as is referred to in the foregoing section shall be admitted until after the expiration of the year in which the arrear, or any part of the arrear, accrued.

Procedure in execution by sale of holding.

**84. (1)** A decree for arrears of rent due in respect of an absolute occupancy-holding shall, if sale of such holding be ordered in execution, be executed as if it ordered sale in pursuance of a contract specifically affecting the holding, and shall under section 320 of the <sup>1</sup>Code of Civil Procedure be transferred to the Collector for execution.

XIV of 1882.

(2) The Collector executing the decree may, notwithstanding anything contained in section 305 of the Code of Civil Procedure, allow the tenant time in which to pay the amount due: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed two months.

Procedure in execution by ejectment.

**85. (1)** A decree for an arrear of rent due in respect of an occupancy or ordinary holding or a holding held by a sub-tenant may be executed by the ejectment of the tenant: Provided that, notwithstanding anything contained in the <sup>1</sup>Code of Civil Procedure, an order for the ejectment of a tenant in execution of such a decree shall be transferred to a Revenue-officer for execution.

XIV of 1882.

(2) The Revenue-officer on receiving the decree shall cause a notice to be served upon the tenant stating the date of the decree, the amount due thereunder and the numbers borne in the village rent-roll by the fields constituting the holding, and informing him that if he does not pay into Court within a month from date the amount due he will be ejected from his holding.

(3) If the amount due is not paid within the period appointed, the Revenue-officer may, subject to the provisions of sections 32, 88 and 89, eject the tenant or may, after such inquiry as he deems necessary, postpone ejectment in order to allow the tenant time for payment: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed in the case of an occupancy-holding or an ordinary holding not consisting entirely of sîr-land four months, or in the case of an ordinary holding consisting entirely of sîr-land or a holding held by a sub-tenant one month.

(4) The Local Government may make rules for the guidance of Revenue-officers executing decrees under this section.

Power of Court to deal with cases of drought or other calamity in suits for arrears.

**86. (1)** Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary,

<sup>1</sup>See now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(2) In any such case the Court may order that the provisions of sections 84 and 85 shall not apply to the decree.

(3) In making a decree under this section the Court shall have regard to—

(a) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued; and

(b) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been, wholly or in part, suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

**87.** (1) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

Relief  
against  
forfeitures.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach, and whether, in the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, extend a period fixed by it under sub-section (2) for remedying a damage or breach.

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

**88.** The following rules shall be applicable in the case of every tenant ejected from a holding:—

(1) When the tenant has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use

Rights of  
ejected ten-  
ants in re-  
spect of crops  
and land  
prepared for  
sowing.



it for the purpose of tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(2) When the tenant has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing the land, together with a reasonable interest thereon :

Provided that a tenant shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage :

Provided, also, that the rent, if any, payable to the landlord by the tenant at the time of ejectment may be set off against any sums payable to the tenant under this section.

Payment by tenant for occupation of land under section 88.

In suits for arrears all claims between landlord and tenant to be determined.

Procedure when, on sale or ejectment, money is due by the landlord to the tenant.

Reinstatement of tenant illegally ejected.

**89.** When a landlord elects, under clause (1) of the last foregoing section, to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court or Revenue-officer may deem reasonable.

**90.** In all suits for arrears of rent, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such.

**91.** (1) When it appears to a Court making an inquiry under the last foregoing section that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for sale or ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

(2) If it is so paid within the time specified, the Court shall, subject to the other provisions of this Act, make an order for the sale of the holding or the ejectment of the tenant ; and, if it is not so paid, the Court shall refuse to make such order.

**92.** Any tenant who has been ejected from his holding or from any portion thereof otherwise than in accordance with the provisions of this Act, may, on application to a Revenue-officer made within one year from the date of his ejectment, be reinstated in possession of such holding or portion :

Provided that no order passed under this section shall prejudice the right of the landlord to eject the tenant so reinstated, or the right of a tenant whose application for reinstatement is rejected to establish his title to his holding and to recover possession thereof by means of a regular suit :

**I of 1877.** Provided, also, that possession of a tenancy, or of any portion thereof, shall not be recoverable under section 9 of the <sup>1</sup>Specific Relief Act, 1877, by a tenant dispossessed thereof.

**93.** (1) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof or to the state of the holding at any specified time, be recorded, he may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

Application to measure or ascertain condition of holdings.

(a) make or cause to be made such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or

(b) (where the applicant seeks to have evidence recorded) record that evidence:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under the section, the record shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

**94.** (1) The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected, shall be two years from the date on which he is ejected.

Limitation in suits under the Act.

(2) Whenever rent is taken by division of the produce or by estimate or appraisement of the crop, and no application is made under section 19, no suit by the landlord for the recovery of the share of the produce claimed by him as rent, or the value thereof, shall lie unless such suit is instituted within a period of one year reckoned from the date on which the rent instalment on account of the harvest to which the crop belongs fell due.

**XV of 1877.** (3) In all other cases the limitation of every suit brought under this Act shall be governed by the <sup>2</sup>Indian Limitation Act, 1877:

Provided that nothing in sections 7, 8 and 9 of the said Act shall apply to suits for arrears of rent or for the ejectment of a tenant, or to suits for recovery of possession by a tenant against his landlord.

**95.** Save where it is expressly provided to the contrary, no Court other than the Court of a Revenue-officer or Settlement-officer shall fix, alter or commute any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in respect of which authority is given by this Act to a Revenue-officer or Settlement-officer.

Jurisdiction of Civil Courts barred in certain cases.

**96.** (1) In fixing rents and disposing of the matters referred to in the last foregoing section, Revenue-officers and Settlement-officers shall, as nearly

Procedure on applications to Revenue

<sup>1</sup> General Acts, Vol. II.

<sup>2</sup> See now the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. VI.

and Settlement-officers, and appeals from their orders.

as may be practicable, subject to the provisions of this Act and any rules made thereunder, exercise the same powers and follow the same procedure as they exercise and follow under the <sup>1</sup> Central Provinces Land-revenue Act, XVIII of 1881, as from time to time amended.

(2) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in the last foregoing section, an appeal shall lie as if that decision or order had been passed by that officer under the said Act.

Jurisdiction of Civil Courts in suits between landlords and tenants.

**97.** Except as provided in section 95, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such :

Provided that—

(a) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suits ; and

(b) the Local Government may, subject to the other provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as it thinks fit, and not otherwise.

Recovery of fines and penalties.

**98.** Any sum due as fine or penalty under this Act shall be recoverable as if it were an arrear of land-revenue.

## CHAPTER IX.

### SUPPLEMENTAL.

Power to Local Government to make rules.  
Repeals.

**99.** The Local Government may, by notification in the local official Gazette, make rules for the purpose of carrying out the objects of this Act and prescribing the procedure and practice thereunder.

**100.** The enactments mentioned in the Schedule are repealed to the extent specified in the fourth column thereof.

## THE SCHEDULE.

### ENACTMENTS REPEALED.

(See section 100.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1883	IX	The Central Provinces Tenancy Act, 1883.	The whole.
1889	XVII	The Central Provinces Tenancy Act, 1889.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Acts IX of 1883 and XVII of 1889.

<sup>1</sup> *Supra*.

ACT No. XII of 1898.<sup>1</sup>

[THE CENTRAL PROVINCES LAND-REVENUE ACT, 1898.]

[21st October, 1898.]

## An Act further to amend the Central Provinces Land-revenue Act, 1881.

XVIII of 1881.

WHEREAS it is expedient further to amend the Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows :—

1. (1) This Act may be called the Central Provinces Land-revenue Act, 1898; and  
(2) It shall come into force at once.

Short title and commencement.

XVIII of 1881.

2. In Chapter I of the Central Provinces Land-revenue Act, 1881 (hereinafter referred to as "the said Act"), clause (6) of section 4 is repealed, and after section 4 the following shall be added, namely :—

Substitution of new definition of "sir-land" for that contained in section 4, clause (6), Act XVIII, 1881.

[4A. *Vide supra*, p. 129.]

3. For section 65A of the said Act the following shall be substituted, namely :—

Substitution of new section for section 65A, Act XVIII, 1881.

[65A. *Vide supra*, p. 145.]

4. For section 69 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 69, Act XVIII, 1881.

[69. *Vide supra*, p. 150.]

5. In section 78 of the said Act, after the figures "69," the word and figure "sub-section (1)," shall be inserted.

Amendment of section 78, Act XVIII, 1881.

6. To section 91 of the said Act the following *Explanation* shall be added, namely :—

Addition of an *Explanation* to section 91, Act XVIII, 1881.[*Vide supra*, p. 155.]

7. After section 91 of the said Act the following shall be added, namely :—

Addition of new section after section 91, Act XVIII, 1881.

[91A. *Vide supra*, p. 155.]

<sup>1</sup> This Act amends Act XVIII of 1881 which is in force in the Taluqas of Nugur, Albaka and Cherla; see note to s. 1 of that Act, *ante*.

For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 142; for Report of the Select Committee, see *ibid*, 1898, Pt. V, p. 339; and for Proceedings in Council, see *ibid*, Pt. VI, 1897, p. 228, and *ibid*, 1898, pp. 370, 388.

Addition to section 132, Act XVIII, 1881.

**8.** For clause (i) of section 132 of the said Act the following clauses shall be substituted, namely :—

[*Vide supra*. p. 166.]

Addition of new section after section 136V, Act XVIII, 1881. Rules regarding village-watchmen may provide for their punishment.

**9.** After section 136V of the said Act the following section shall be added, namely :—

[136W. *Vide supra*, p. 170.]

Addition of new section after section 157, Act XVIII, 1881. Transfer from Criminal to Revenue Courts of power to fine a mukad-  
Jam for breach of duty under the Act.  
Repeals.

**10.** In clause (a) of section 147A of the said Act, between the words “appointment” and “suspension” the word “punishment” shall be inserted.

**11.** In Chapter XII of the said Act, after section 157 the following shall be added, namely :—

[157A. *Vide supra*, p. 179.]

**12.** In sections 161A and 161B of the said Act, for the words “punishable with fine” the words “liable, on the order of a Deputy Commissioner, to a fine” shall be substituted.

**13.** Sections 3, 5, 17, 19, 20 and 24 of the Central Provinces Land-revenue Act, 1889, are repealed.

XVI of 1889.

# ACT No. XXI OF 1899.<sup>1</sup>

## THE CENTRAL PROVINCES TENANCY (AMENDMENT) ACT, 1899.

[8th September, 1899.]

### An Act to amend the Central Provinces Tenancy Act, 1898.

WHEREAS it is expedient to amend the Central Provinces Tenancy Act, XI of 1898, 1898; It is hereby enacted as follows :—

Short title and commencement.

**1.** (1) This Act may be called the Central Provinces Tenancy (Amendment) Act, 1899; and

(2) It shall come into force at once.

<sup>1</sup> This Act amends Act XI of 1898 which is in force in the Taluqas of Nugur, Albaka and Cheria, see note to s. 1 of that Act, *ante*.

For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 117, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 196 and 206.

1899: Act XXI.] *Central Provinces Tenancy (Amendment).* 255

1901: Act VI.] *Assam Labour and Emigration.*

XI of 1898. 2. In section 45 of the Central Provinces Tenancy Act, 1898, for sub-section (6) the following sub-section shall be substituted and shall be deemed to have been substituted on and with effect from the commencement of the said Act, namely :—

[*Vide supra*, p. 235.]

Substitution of new sub-section for sub-section (6), section 45, Act XI, 1898.

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## THE FIRST SCHEDULE.—FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

## THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

ACT VI OF 1901.<sup>1</sup>

[THE ASSAM LABOUR AND EMIGRATION ACT, 1901.]

[9th March, 1901.]

An Act to consolidate and amend the law relating to Emigration to the Labour-districts of Assam.

WHEREAS it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Assam Labour and Emigration Act, 1901.

Short title,  
extent and  
commence-  
ment.

<sup>1</sup> This Act is an amalgamation of the provisions of two Bills separately introduced in Council—see Report of Select Committee referred to below.

For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, pp. 165 and 175, respectively; for Report of Select Committee on both Bills see *ibid*, 1901, Pt. V, p. 27; for Proceedings in Council see *ibid*, 1899, Pt. VI, pp. 225 and 234, and *ibid*, 1901, Pt. VI, pp. 15 and 32.

Since the preparation of this Code the Act has been further amended by Act VIII of 1915.

## (2) It extends—

- (a) to the Provinces of Bengal (including the Santhal Parganas) the North-Western Provinces, Oudh and Assam, the Central Provinces and the District of Ganjam in the Province of Madras ; and
- (b) to such other parts of British India as the Local Government may, with the previous sanction of the Governor General in Council by notification in the local official Gazette, direct.<sup>1</sup>

## (3) It shall come into force—

- (i) in the territories mentioned in clause (a) of sub-section (2), at once and,
- (ii) in any territories to which it may be extended by a notification under clause (b) of the said sub-section, on such day as may be specified in that behalf in the notification.

**2.** (1) In this Act, unless there is anything repugnant in the subject or context,—

Definitions

- (a) “ agent ” means a garden-sardar or other person engaging or assisting any native of India to emigrate under Chapter V :
- (b) “ Assistant Inspector ” means an Assistant Inspector of Labourers appointed under this Act :
- (c) “ contractor ” means a contractor licensed under this Act :
- (d) “ dependant ” includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a contractor, sub-contractor, recruiter, local agent or garden-sardar, or accompanying any emigrant with the consent of an agent :
- (e) “ emigrate ” denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant :
- (f) “ employer ” means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed :
- (g) “ estate ” means the land upon which any labourers or more than fifty other persons have been engaged to labour :
- (h) “ garden-sardar ” means a person employed on an estate and deputed by his employer to engage labourers :
- (i) “ Inspector ” means an Inspector of Labourers appointed under this Act :

<sup>1</sup> The Act was extended to the district of Vizagapatam by Notification No. 590, dated 8th October, 1901 [Fort St. George Gazette, 1901, Pt. I, p. 1861], and to the districts of Godavari, Kistna, Guntur and Nellore : see *ibid.*, 1903, Pt. I, p. 809.



- (j) "labour-contract" means a contract, penally enforceable under this Act, to labour for hire in a labour-district otherwise than as a domestic servant :
- (k) "labour-district" means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet in the Province of Assam :
- (l) "labourer" means any person bound by a labour contract, and includes any person registered as such under section 34 or section 69 :
- (m) "local agent" means a local agent licensed under this Act :
- (n) "Magistrate" means a District Magistrate, Sub-divisional Magistrate or other person appointed by the Local Government to perform the functions of a Magistrate under this Act :
- (o) "recruiter" means a recruiter licensed under this Act :
- (p) "recruiting district" means a district in which this Act is for the time being in force, other than a labour-district :
- (q) "Registering officer" means a Registering-officer appointed under this Act :
- (r) "sign" and "signature" include in the case of persons unable to write, finger-impressions :
- (s) "sub-contractor" means a sub-contractor licensed under this Act : and
- (t) "Superintendent" means a Superintendent of Emigration appointed under this Act.

(2) All words defined in the Indian Contract Act, 1872,<sup>1</sup> and used in this IX of 1872. Act shall be deemed to have the meanings respectively assigned to them by that Act.

Local Government may prohibit recruitment, etc., for emigration to any labour-district or part thereof either absolutely or otherwise than under certain provisions of Act.

<sup>2</sup> 3. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette prohibit all persons from recruiting, engaging, inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district or any specified portion of any labour-district, either absolutely or otherwise than in accordance with such of the provisions of this Act as may be specified in the notification :

Provided that a notification under this section shall not take effect until the expiry of six months from the date of its publication in the Gazette, unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date.

<sup>1</sup> Printed in General Acts, Vol. II.

<sup>2</sup> For notifications under this section in respect of the districts of Canjam and Vizagapatam, see Fort St. George Gazette, 1901, Pt. I, p. 1861, for notifications in respect of the districts of Kistna, Guntur and Nellore and parts of the Godavari district, see *ibid*, 1908, Pt. I, p. 809.

14. (1) The Local Government may appoint so many persons as it <sup>Appoint-</sup> thinks necessary to be Superintendents of Emigration, Registering-officers, <sup>ment of</sup> Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant <sup>officer.</sup> Inspectors of Labourers and Medical Inspectors, under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor-General in Council, declare the local area situate in the Province within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

(2) Every person so appointed shall be deemed to be a public servant <sup>XLV of 1860.</sup> within the meaning of the Indian Penal Code.<sup>2</sup>

## CHAPTER II.

### LABOUR-CONTRACTS GENERALLY.

5. (1) Every labour-contract shall be in writing in the form set forth in <sup>Essentials of</sup> the First Schedule, and shall be executed as hereinafter provided in duplicate <sup>labour-</sup> on substantial paper. <sup>contracts.</sup>

(2) Every labour-contract shall specify:—

- (a) the names of the labourer and his employer;
- (b) the term for which the labourer is to labour;
- (c) the monthly wages in money of the labourer and the price at which rice is to be supplied to him;
- (d) the labour-district in which, and, if the labourer so requests, the estate on which, the labourer is to labour.

(3) No labour-contract shall be made for a term exceeding four years or, if the contract is entered into under the provisions of section 118, for a term exceeding one year, commencing from the date of its execution.

(4) No labour-contract shall stipulate for a less rate of monthly wages than—

for the first year, five rupees in the case of a man and four rupees in the case of a woman:

for the second and third years, five rupees eight annas in the case of a man and four rupees eight annas in the case of a woman: and

for the fourth year six rupees in the case of a man and five rupees in the case of a woman:

Provided that the payment of wages under a labour-contract at the stipulated rate shall during the first six months after the arrival of the labourer in

<sup>1</sup> For notifications under this section in respect of the districts of Ganjam and Vizagapatnam, see Fort St. George Gazette, 1901, Pt. I, p. 1861, for notifications in respect of the districts of Kistna, Guntur and Nellore and parts of the Godavari district, see *ibid.*, 1903, Pt. I, p. 809.

<sup>2</sup> General Acts, Vol. I.

the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act unless an Inspector has certified that the labourer is physically fit to perform the whole of such task :

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task :

Provided further that any labour-contract made before the first day of April, 1903, may stipulate for a rate of monthly wages of not less than five rupees in the case of a man and four rupees in the case of a woman for the second and third years of the term of such contract.

Contracts not enforceable as labour-contracts unless made in accordance with section 5.

In absence of specific obligation, underground labour not obligatory. Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district.

Persons who may enter into labour-contracts.

Power of Local Government to cancel contract in case of wrongful recruitment.

**6.** No contract made otherwise than in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it.

**7.** Unless his labour-contract contains a specific obligation to that effect no labourer shall be bound by it to undertake any work involving underground labour in mines.

**8.** Unless his labour-contract specifies the particular estate on which he is to labour, a labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour and situate in the labour-district specified in the contract :

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, being his or her wife, husband, son or daughter.

**9.** Notwithstanding anything to the contrary in the Indian Contract Act, IX of 1872,<sup>1</sup> any person of the age of sixteen years or upwards may enter into a labour-contract :

Provided that no woman shall be capable of binding herself by a labour-contract if her husband or lawful guardian (if any) objects.

**10.** (1) Where the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour district, or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Govern-

<sup>1</sup> General Acts, Vol II.

ment may, by order in writing, direct the labour-contract of the labourer to be cancelled.

(2) On receipt of an order made under sub-section (1), the Superintendent, Inspector or Magistrate shall cancel the labour-contract referred to in the order, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

11. Where the labour-contract of a labourer is or has been cancelled under section 10, the Local Government may, in its discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of a labour-contract cancelled in the labour-districts, may be employed on any estate belonging to the same owner or under charge of the same employer.

Power to cancel contract of labourer related to labourer whose contract is cancelled.

12. (1) Subject to any orders which the Local Government may make in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with his dependants (if any), whose labour-contract has been cancelled under section 10 or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely :—

Repatriation of labourers whose contracts are cancelled.

- (a) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter III, from the contractor at whose depôt the labourer executed his labour-contract ;
- (b) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter IV, from the employer by whom the certificate of the garden-sardar concerned was granted or from the local agent of the employer ; and.
- (c) in the case of a labourer in a labour-district, from the employer on whose estate the labourer is under contract to labour, or, if the labourer has been recruited under Chapter III, either from such employer or from the contractor at whose depôt the labourer executed the labour-contract, as to the Inspector or Magistrate may seem expedient.

(2) In the case of a labourer recruited under Chapter III, when the whole or any part of such expenses have been recovered from the employer, the employer shall be entitled to recover the same from the contractor at whose depôt the labourer executed the labour-contract.

(3) A certified copy of the order in writing of the Local Government under section 10 or section 11 and the receipt granted to the employer for such expenses shall be conclusive evidence of the title of the employer to recover such expenses from the contractor.

Escort for  
repatriated  
labourer.

**13.** (1) Where a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer is actually conveyed to his native district.

(2) Any expenditure incurred in providing such escort or making such arrangements as aforesaid may be recovered as part of the amount expended in sending the labourer back to his native district.

### CHAPTER III.

#### RECRUITMENT BY CONTRACTORS, SUB-CONTRACTORS AND RECRUITERS.

##### *Contractors and Sub-contractors.*

Licensing  
contractors  
and sub-  
contractors.

**14.** Any Superintendent specially empowered in this behalf by the Local Government may grant to persons fitted by character to act as contractors licenses to be contractors within the whole or any part of the local area for which the Superintendent has been appointed; and may also, on the application of any contractor, grant to persons fitted by character to act as sub-contractors licenses to be sub-contractors, on behalf of the contractor, within the whole or any part of the local area for which the contractor is licensed.

Fee for  
and form of,  
contractors'  
and sub-con-  
tractors'  
licenses.

**15.** Every license granted under section 14 shall be in such form, and subject to the payment of such fee, not exceeding, in the case of a contractor, one hundred rupees, and, in the case of a sub-contractor, fifty rupees, as the Local Government may, by rule, prescribe.

Duration of  
contractors'  
and sub-  
contractors'  
licenses and  
cancellation  
thereof.

**16.** (1) No license shall be granted under section 14 for a longer period than one year from the date thereof, and if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same.

(2) A contractor or sub-contractor may, within one month from the date of any order of a Superintendent cancelling his license under sub-section (1), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

Duties of  
contractors.

**17.** Every contractor shall, in addition to the special duties imposed upon him by this Act, afford such information to the Superintendent and furnish him with such returns and reports as the Superintendent may, subject to any rules made by the Local Government in this behalf, require.

Sub-con-  
tractor to  
act on  
behalf of  
only one  
contractor.

**18.** No sub-contractor shall be licensed to act on behalf of more than one contractor.

**19.** A contractor or sub-contractor may act as a recruiter, and shall, when so acting, be subject to all the provisions of this Act relating to recruiters.

Contractor or sub-contractor acting as recruiter.

**20.** (1) Every contractor shall be liable for the acts and defaults as a sub-contractor or recruiter of any person licensed to be sub-contractor or recruiter on his behalf, and all payments which, under this Act or any rule thereunder, any person so licensed is required to make, may, in case of default, be recovered from the contractor concerned.

Liability of contractors for sub-contractors' and recruiters' acts and defaults.

(2) The Superintendent may cancel the license of any contractor where the license of any person so licensed on behalf of the contractor is liable to be cancelled under this Act.

(3) Nothing in this section shall be deemed to render a contractor criminally liable for any act or default on the part of any person so licensed on his behalf.

**21.** Every contractor shall establish and maintain, at such places and for such local areas as the Local Government may direct, suitable depôts for the reception and lodging, previous to their despatch to the labour-districts of labourers engaged by him or by sub-contractors or recruiters licensed on his behalf, and shall provide at his own expense all necessary food, clothing and medical treatment for any labourers so engaged during their stay at the depôts.

Contractor to establish depôts.

**22.** (1) No depôt shall be used for the reception and lodging of labourers until it has been inspected and approved of by the Superintendent and the Medical Inspector.

Inspection and Supervision of depôts.

(2) Every depôt shall be under the supervision of the Superintendent, the Magistrate or such other officer as the Local Government may appoint in this behalf, and shall be open at all times to inspection by the Superintendent, the Magistrate or such officer as aforesaid, and the Medical Inspector.

(3) Where the Superintendent considers that any depôt is unhealthy, or has become unsuitable for the purpose for which it was established, he may, by order in writing, prohibit the use of the depôt for the reception and lodging of labourers.

**23.** In addition to the depôts hereinbefore provided for, the Local Government may establish separate hospital-depôts for the reception of labourers suffering from dangerously infectious or contagious diseases.

Establishment of hospital depôts.

**24.** (1) Where a hospital depôt is established under section 23, the Local Government may require any contractor having a depôt in the neighbourhood of the hospital depôt to contribute to the expense of the establishment and maintenance of the hospital depôt such reasonable sum as it may direct, and may recover the same from the contractor.

Contractor to contribute towards establishment and maintenance of hospital depôt.

(2) Every hospital-depôt established under section 23 shall be under the charge of a medical officer appointed by the Local Government.

(3) Any Medical Inspector may direct the transfer of any labourer from a *dépôt* established within the local limits of his jurisdiction to a hospital-*dépôt* established under section 23 within the said local limits.

*Recruiters.*

Licensing  
of recruiters.

**25.** Any Superintendent empowered in this behalf by the Local Government may, on the application of a contractor or of any sub-contractor acting on behalf of a contractor, grant to persons fitted by character to be employed in engaging labourers licenses to be recruiters on behalf of the contractor within the whole or any specified part of the local area for which the contractor has been licensed :

Provided that no person shall be granted a license under this section to be a recruiter on behalf of more than one contractor or to act as such within the local limits of more than one district.

Form of  
and fee for,  
recruiters'  
license.

**26.** Every license granted under section 25 shall be in such form, and subject to the payment of such fee, not exceeding sixteen rupees, as the Local Government may, by rule, prescribe.

Duration  
of recruiter's  
license.

**27.** No license shall be granted under section 25 for a longer period than one year from the date thereof ; and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same.

Recruiter to  
hold certi-  
ficate from  
contractor  
or sub-con-  
tractor.

**28.** Every recruiter shall hold a certificate in writing authorizing him to act as such and signed by the contractor or sub-contractor on whose application he was licensed.

Magistrate's  
countersig-  
nature of  
recruiter's  
license.

**29. (1)** No recruiter shall engage or attempt to engage any person as a labourer unless his license bears the countersignature of a Magistrate having jurisdiction in the district or sub-division for which he is licensed.

(2) No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself by such inquiry as he thinks fit that the licensee is not, by character or from any other cause, unfitted to be a recruiter under this Act, that he holds the certificate prescribed by section 28, and that sufficient and proper accommodation has been provided in a suitable place and is available for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a *dépôt*.

Magistrate  
to supervise  
accommoda-  
tion.

**30. (1)** Every Magistrate shall have, for the supervision, inspection and regulation of any place within the local limits of his jurisdiction in which accommodation is provided under section 29, sub-section (2), the same powers as are by this Act conferred on the Superintendent in respect of *dépôts*.

(2) The District or any Sub-divisional Magistrate may authorize any Magistrate subordinate to him, or any officer of police above the rank of sub-inspector, to visit and inspect such places as aforesaid at any time ; and all recruiters or other persons in charge of such places as aforesaid shall afford

to subordinate Magistrates and officers of police so authorized every facility for visiting and inspecting them.

**31.** (1) Where any Magistrate who has countersigned a recruiter's license afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided under section 29, sub-section (2), has become insufficient or improper or has ceased to be available, or that the place in which it is provided has become unsuitable, he may require the licensee to produce his license and may cancel his countersignature thereon, or he may impound the license and send it for cancellation to the Superintendent who granted the same.

*Cancellation of Magistrate's countersignature in certain cases.*

(2) Every Magistrate refusing to countersign a recruiter's license or cancelling his countersignature thereon shall at once report his refusal or cancellation and the grounds thereof to the Superintendent who granted the license.

*Procedure before arrival at Depôts.*

**32.** (1) Every recruiter who desires to engage any person as a labourer shall appear with the person before such medical officer as the Local Government may appoint in this behalf within the local limits of the jurisdiction of the Magistrate by whom the recruiter's license was countersigned, or, if no medical officer has been so appointed, before such medical officer as the Registering-officer before whom the person is taken for registration as hereinafter provided may direct.

*Intending labourer to be taken for examination to medical officer.*

(2) The medical officer shall thereupon examine the person, and shall, if satisfied that he is in a fit state of health to proceed to the labour-district in which he intends to labour, and is not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, give him a certificate to that effect.

**33.** Every person who obtains a certificate under section 32, together with any persons about to proceed to a labour-district as his dependants, shall thereupon be brought by the recruiter before the Registering-officer having jurisdiction within the local area for which the recruiter is licensed or before such other Registering-officer as the Local Government may appoint for that local area. The recruiter shall, at the same time, produce and show his license to the registering-officer.

*If certified to be fit, intending labourer to be brought before Registering-officer.*

**34.** (1) The Registering-officer shall thereupon inspect the certificate given under section 32 and the license of the recruiter, and, if he finds that the certificate has been duly given and that the recruiter is duly licensed, shall then examine the person brought before him under section 33 with reference to his intended labour-contract, and explain the same to him.

*Examination and registration of intending labourer.*

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract, and understands the same as regards the locality the period and nature of the service and the rate of wages and the price at which rice is to be supplied to him,



that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependants as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

(3) Where any woman is produced before a Registering-officer for the purpose of being registered under this section, the Registering-officer shall, after such inquiry as may be necessary to satisfy him of the identity of her husband or lawful guardian, as the case may be, and, after such examination as may be necessary to satisfy him of the consent of such husband or lawful guardian, place on record in writing under his own signature that such husband or lawful guardian has consented to her entering into a labour-contract, and such record shall also be subscribed by the husband or lawful guardian with his signature.

(4) In the case of any such woman who is alleged to be a widow or of an unmarried woman who is stated to have no lawful guardian living, the Registering-officer shall satisfy himself by the evidence of at least one witness that her husband is dead or that she has no lawful guardian, as the case may be, and shall record such evidence in writing under his own signature.

Arrangements to be made for return to home of intending labourer whose registration is refused.

**35.** (1) Where the Registering-officer refuses to register a person as a labourer under this Act, he shall report his refusal to the District or Sub-divisional Magistrate or other officer appointed by the Local Government in this behalf, and such Magistrate or officer as aforesaid may make such arrangements as he may think necessary for ensuring the return of the person and his dependants (if any) to their homes and for their proper housing and support in the interval. In the case of any male under the age of sixteen years or any female recruited in circumstances which appear to be suspicious, the arrangements may include the provision of an escort home.

(2) Any expenditure incurred under sub-section (1) may be recovered from the contractor or recruiter, concerned, or both.

Copy of registration to be given to labourer.

**36.** The Registering-officer shall furnish to every person registered under section 34, sub-section (2), a certified copy written on substantial paper of the particulars referred to therein.

Copy of registration and medical certificate to be sent to Superintendent.

**37.** Every Registering-officer registering a person under section 34, sub-section (2), shall forthwith forward a certified copy of the particulars referred to therein and the original certificate of the medical officer regarding the person to the Superintendent having jurisdiction over the depôt to which the person is to proceed.

Fee for registration.

**38.** For every person produced before a Registering-officer for the purpose of being registered under section 34, sub-section (2), the recruiter shall pay

to the Registering-officer such fee not exceeding one rupee, as the Local Government may, by rule, prescribe.

39. No recruiter shall remove or attempt to remove any person to a depôt or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Registering-officer before whom he ought to be brought under section 33, or aid or attempt to aid him in going to a depôt, or leaving any such local limits as aforesaid, unless and until he has been registered under section 34, sub-section (2). Recruiter when to remove person to depôt.

40. (1) After a labourer has been registered under section 34, sub-section (2), the Registering-officer shall direct the recruiter to convey the labourer with all convenient despatch to a depôt established by the contractor on whose behalf the recruiter has been licensed, and shall specify the depôt to which the labourer is to be conveyed. Conveyance of labourer to depôt.

(2) Every labourer shall, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person deputed by him with the approval of the Registering-officer by whom the labourer has been registered.

(3) The Registering-officer shall give to every person so deputed a certificate, under his signature, stating that he has been deputed for the journey to the depôt.

41. Every recruiter or person deputed by him under section 40, sub-section (2), shall, throughout the journey to the depôt, provide the labourer and his dependants (if any) with proper and sufficient food and lodging. Recruiter to provide food and lodging for labourer on journey.

#### *Procedure at Contractors' Depôts.*

42. Within twenty-four hours after the arrival of a labourer at a depôt, the contractor by whom the depôt is maintained, or the person in charge thereof, shall give to the Superintendent, within the local limits of whose jurisdiction the depôt is situate, a notice in writing, in such form and containing such particulars as the Local Government may, by rule, prescribe, of the arrival of the labourer. Contractor to report arrival of labourer.

43. (1) The Medical Inspector shall, as soon as may be after the arrival of a labourer at a depôt, examine the labourer and his dependants (if any) to ascertain that they are in a fit state of health to undertake the journey to the labour-district to which they intend to proceed, and, in the case of the labourer, that he is also not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts. Duties of Medical Inspector.

(2) The Medical Inspector shall give a certificate to the Superintendent stating whether he is not or is satisfied that the labourer and his dependants (if any) are in a fit state of health to undertake the journey and, in the case of the labourer, that he is also not incapacitated as aforesaid.

44. Where the Medical Inspector gives a certificate under section 43, sub-section (2), with respect to any labourer, and there is, in the opinion of the Superintendent, no valid reason why the labourer should not enter into the On grant of certificate, labourer to enter into

labour-con-  
tract.

intended labour-contract, the labourer and the employer with whom he intends to contract, or the person appearing on behalf of the employer, shall, after the lapse of three, and within thirty, days after the date of the arrival of the labourer at the depôt, execute the labour-contract in the presence of the Superintendent :

Provided that no labour-contract shall be executed as aforesaid except in the district in which the labourer was registered under section 34, sub-section (2), or at such other place within the Province as the Local Government may direct.

Contract to  
be explained  
to labourer  
by Superin-  
tendent, and  
abstract and  
copies to be  
made.

**45.** (1) Before any labourer executes a labour-contract, under section 44, the Superintendent shall personally explain it to him, and shall, after the same has been executed by him and by his employer or the person appearing on behalf of his employer, attest the labour-contract and certify at the foot thereof that he has personally explained the same to the labourer.

(2) An abstract of every labour-contract so executed shall be entered in a register to be kept by the Superintendent for the purpose ; and, after the abstract has been so entered, one copy of the labour-contract shall be given to the labourer and the other to his employer or the agent of his employer.

Power for  
employer to  
require  
further  
medical  
certificate as  
to fitness to  
labour  
previous to  
contract.

**46.** Where the employer with whom any labourer intends to contract, or a person appearing on behalf of the employer, has given notice to the Superintendent that, before any labour-contract is entered into by him or on his behalf with any labourer, the labourer shall be examined by a medical man selected by such employer or person appearing on behalf of the employer and shall be certified by him to be physically and constitutionally fit for labour in the labour-district in which the estate of the employer is situate, the Superintendent shall not permit the labourer to execute a labour-contract, until such medical certificate as aforesaid has been produced and shown to him.

Fee of  
medical  
officer when  
in Govern-  
ment service  
for examin-  
ation under  
section 46.

**47.** Where the employer or the person appearing on his behalf has directed that the examination referred to in section 46 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the employer or such person such fees as may be agreed upon, or, if no agreement has been entered into, then such fee for each labourer so examined as the Local Government, by general or special order, may direct.

Power to  
cancel con-  
tract and  
order pay-  
ment of  
expenses of  
return of  
labourer in  
certain cases.

**48.** In any of the following cases, namely :—

- (a) where the Medical Inspector, on making the examination required by section 43, sub-section (1), or at any subsequent time during the stay at the depôt of a labourer, finds that the labourer is or has become unfit to undertake the journey to the labour-district to which he intends to proceed, or that the labourer is incapacitated by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, and the Superintendent considers that the labourer has not dishonestly represented himself as fit to undertake the journey ; or

(b) where the Superintendent finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of a labourer as makes it just to refuse to permit a labour-contract to be executed or to rescind a labour-contract which has been executed ;  
or

(c) where the contractor on whose behalf or by whom a labourer has been registered does not, after the lapse of three, and within thirty days after the date of the arrival of the labourer at the dépôt, tender to him a labour-contract for execution under section 44 or the employer or the person appearing on his behalf refuses or neglects to execute the contract as required by that section ;

the Superintendent may cancel the labour-contract executed by the labourer, and in that event, or if no labour-contract has been executed, may order the contractor at once to pay the labourer such reasonable sum as the Superintendent may think necessary to enable the labourer to return to the place at which he was registered or to his native district, as to the Superintendent may seem fit, and such further sum by way of compensation as the Superintendent thinks reasonable ; and may take such other steps as he may think necessary for the conveyance of the labourer to such place or district as aforesaid.

**49.** (1) Any labourer who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the return journey, shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the dépôt at the expense of the contractor by whom the dépôt is maintained, until he is reported by the Medical Inspector to be fit to undertake the return journey. Labourer when to be lodged, etc.. at dépôt till he can return home.

(2) Where the contractor negligently or wilfully omits to provide food, lodging, clothing or medical treatment for the labourer, the Superintendent may order the contractor at once to pay such reasonable sum as the Superintendent may think necessary to provide such food, lodging, clothing or medical treatment as aforesaid.

**50.** Where an order is made under section 48 with reference to a labourer, any person registered as his dependant, or any other labourer, being his or her wife, husband, son or daughter, may claim— Like provisions in case of dependants and relatives.

- (a) to be conveyed, at the expense of the contractor, with the labourer to the same place as the labourer ; and,
- (b) if the labourer is unable to travel, to be fed, lodged, clothed and (if necessary) medically treated in the dépôt at the expense of the contractor until the labourer is able to travel ;

and the Superintendent may include such expenses as aforesaid in an order made under section 48 or section 49 with respect to the labourer.

**51.** Where, upon the arrival of a labourer at a dépôt, it appears that during the journey to the dépôt, the labourer or any person registered as his dependant Compensation to labourer

for ill-treatment on the journey.

has suffered ill-treatment at the hands of the recruiter or person deputed by the recruiter to accompany the labourer, or that the recruiter or such person as aforesaid has failed to provide the labourer or any person registered as his dependant with proper and sufficient food and lodging, the Superintendent may order the contractor by whom the depôt is maintained to pay the labourer a reasonable sum by way of compensation.

Procedure when dependant declared unfit to proceed to labour-district.

**52.** Where the Medical Inspector has reason to think that any person registered as the dependant of a labourer is not in a fit state of health to undertake the journey to the labour-district to which the labourer intends to proceed, the Medical Inspector shall so certify to the Superintendent to whom notice of the arrival of the labourer was given. The provisions of sections 48 and 49 shall thereupon apply to the dependant as if he were a labourer, and the Superintendent may make such orders regarding him as he may make under those sections with regard to a labourer.

Labourer and relatives entitled to be returned with dependant.

**53.** In any such case as is provided for by section 52, the labourer to whom the dependant is attached shall further be entitled, if he or she so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to receive from the contractor at whose depôt he or she arrived, such reasonable sum as the Superintendent may think necessary to enable him or her to return to the place where he or she was registered, or to his or her native district, as to the Superintendent may seem fit. If the labourer so returns, then any other persons registered as his or her dependants, and any other labourer, being his or her wife, husband, son or daughter, shall also be entitled to receive a like sum from the contractor.

Failure of contractor to pay sums ordered to be paid under sections 48 to 53.

**54.** On the failure of a contractor for the space of twenty-four hours to comply with an order of the Superintendent to pay any sum required to be paid under section 48, section 49, section 50, section 51, section 52 or section 53, the Superintendent may pay the same to or on behalf of the labourer or dependant concerned, and may recover it from the contractor.

Provisions as to escort on journey and way-bill.

**55.** (1) All labourers despatched from a contractor's depôt to a labour-district shall during their journey to the place where they are to labour be accompanied by a person appointed by the contractor, and no person shall be so appointed unless he holds a certificate of fitness signed by the Superintendent, who may cancel such certificate for any reason which seems to him sufficient.

(2) Every person appointed under sub-section (1) shall take with him a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe; he shall present the way-bill at all such places and to all such officers as may be thereupon indicated; and he shall carry out all instructions therein contained for his guidance.

## CHAPTER IV.

## RECRUITMENT BY GARDEN-SARDARS AND LOCAL AGENTS.

*Garden-sardars.*

**56.** (1) An employer may grant to any garden-sardar a certificate authorizing him, in such local area within the limits of a single recruiting district as may be specified in the certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which the employer is in charge, and may cancel such certificate at any time.

Employer may grant certificate to garden-sardar.

(2) Where any labourer bound by a labour-contract is granted a certificate under sub-section (1), his employment under the certificate shall be deemed to be employment under his labour-contract.

**57.** (1) Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be in such form and shall contain such particulars as the Chief Commissioner of Assam may prescribe in this behalf.

Form and particulars to be contained in such certificate.

(2) Any employer granting a certificate to a garden-sardar under section 56, sub-section (1), may, before the certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any) to whom the garden-sardar is to report himself for orders, the time within which he is to return to his employer, and such other instructions for his guidance as he may think fit.

**58.** Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be accepted and signed by the garden-sardar in the presence of the Inspector or of a Magistrate having jurisdiction over the place where the employer granting the certificate resides.

Certificate to be accepted and signed in presence of Inspector or Magistrate.

**59.** The Inspector or Magistrate shall inquire into the facts stated in the certificate, and, upon being satisfied of the truth of the facts so stated, shall, unless it appears to him that the person so accepting and signing the certificate is not employed on an estate of which the person granting the certificate is in charge or is, by character or from any other cause, unfitted to be a garden-sardar, countersign and date the certificate.

Inspector's or Magistrate's countersignature of certificate.

**60.** (1) On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, the Inspector or Magistrate may, without requiring the appearance of the garden-sardar or making the inquiry prescribed by section 59, countersign a fresh certificate to be granted by the employer to the garden-sardar in renewal of any existing certificate.

Provision for grant of fresh certificate.

(2) Every fresh certificate granted under sub-section (1) shall be forwarded by the Inspector or Magistrate countersigning it to the District Magistrate of the district in which the garden-sardar to whom it is granted is employed; and the garden-sardar shall, on receiving notice from such District Magistrate as aforesaid, appear before him or any Magistrate specified in the notice and accept and sign the fresh certificate in his presence.

Certificate when to come into force, and duration thereof.

**61.** No certificate granted to a garden-sardar under this Chapter shall come into force unless and until it has been accepted and signed by the garden-sardar and countersigned by the Inspector or Magistrate having jurisdiction over the place where the employer granting the certificate resides, and also by the District Magistrate of the district in which the garden-sardar is authorized by the certificate to enter into labour-contracts, and no certificate so granted shall continue in force for a longer period than one year from the date of its countersignature by the said Inspector or Magistrate.

Accommodation to be provided by garden-sardar.

**62.** (1) Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

(2) The District or Sub-divisional Magistrate shall visit and inspect the accommodation so provided; and every garden-sardar or other person in charge of a place in which accommodation is so provided shall afford to such Magistrate every facility for visiting and inspecting it.

(3) The District or Sub-divisional Magistrate may delegate the duty imposed on him by sub-section (2) to a Subordinate Magistrate or to an officer of police above the rank of sub-inspector.

(4) In every such place as aforesaid the garden-sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

Cancellation of certificate in certain cases.

**63.** (1) Where a garden-sardar commits a breach of any of the provisions of this Act or the rules thereunder, the Inspector or Magistrate who countersigned his certificate, or the District Magistrate who countersigned the certificate under section 61, or the Superintendent within whose jurisdiction the garden-sardar is employed may cancel the certificate.

(2) Whenever one of the officers aforesaid cancels a certificate, he shall give notice of the fact to the other officers mentioned in sub-section (1) and to the employer of the garden-sardar; and, whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to the officers aforesaid.

(3) When the certificate of a garden-sardar is cancelled under this section any labourers or other persons of whom he is in charge may be forwarded to their destination under the care of any person appointed by the employer for that purpose and approved by the Superintendent.

#### *Local Agents.*

Licensing and duties of local agents.

**64.** (1) <sup>1</sup> Any Superintendent authorized in this behalf by the Local Government may, on the application of one or more employers, grant licenses to suitable persons to be local agents for the purpose of representing employers in all matters connected with the supervision of garden-sardars

<sup>1</sup> As to officers authorized to grant licenses in Kistna, Guntur and Nellore districts and in parts of the Godavari district, see Fort St. George Gazette, 1908, Pt. I, p. 812.

under this Chapter of section 90 or section 91 within such local area and for such period as the employer or employers so applying may desire :

Provided that no contractor and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a local agent.

(2) A local agent shall furnish such information and make such returns as the Local Government may, by rule, prescribe.

**65.** Any Superintendent authorized<sup>1</sup> in this behalf by the Local Government may, on the application of one or more employers, grant licenses, for such period as the employer or employers may desire, to suitable persons to be selecting agents, for the selection, on behalf of the employer or employers of labourers recruited by contractors, and such selecting agent shall furnish such information and make such returns as the Local Government may by rule prescribe :

Provided that no contractor or local agent and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a selecting agent :

Provided also that no such license shall be granted for more than one year from the date thereof :

Provided also that a license granted under this section may be cancelled by the Superintendent for any reason which seems to him sufficient.

**66.** Where any garden-sardar to whom a certificate has been granted under this Chapter by an employer commits any offence punishable under this Act, any local agent of the employer may prosecute the garden-sardar for that offence.

**67.** (1) The District Magistrate of any district within which a local agent acts as such may, by order in writing, cancel the license of the local agent if the employer so requires, or if it is shown to the satisfaction of the District Magistrate that the local agent has—

- (a) employed any contractor's recruiter to recruit or engage on his behalf persons to be labourers ; or
- (b) permitted persons engaged as labourers by or on behalf of any contractor to use the accommodation provided for the persons engaged as labourers by any garden-sardar under the local agent's control ; or
- (c) allowed any garden-sardar under his control to transfer persons engaged as labourers by the garden-sardar to contractors or to their recruiters or to any employer other than the employer by whom the garden-sardar's certificate was granted ; or

<sup>1</sup> As to officers so authorized in the Kistna, Guntur and Nellore districts and parts of the Godavari district, see Fort St. George Gazette, 1908, Pt. I, p. 812.



(d) himself taken over persons engaged as labourers by any garden-sardar with intent to despatch them to any employer other than the employer by whom the garden-sardar's certificate was granted.

(2) A local agent may within three months next after the date of any order of a District Magistrate cancelling his license under sub-section (1) appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

*Procedure to be followed by Garden-sardars.*

Garden-sardar and labourer to appear before Registering-officer for registration.

Examination and registration of persons engaged by garden-sardar.

**68.** Every garden-sardar who desires to engage any person as a labourer shall appear with the person, together with any others about to proceed to a labour-district as his dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of the garden-sardar or before such other Registering-officer as the Local Government may appoint for that local area.

**69. (1)** The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and, if he finds that the certificate is in force, shall examine, with reference to the intended labour-contract, the person brought before him under section 68 whom it is desired to engage as a labourer and explain the intended labour-contract to him.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter therein by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe: and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

Medical examination.

**70. (1)** Where it appears to the Registering-officer that any person brought before him under section 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may, before registering him under section 69, sub-section (2), if himself a medical man, medically examine him, or, if not himself a medical man, send him to a medical man for medical examination.

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts, the Registering-officer may refuse to register him.

**71.** For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

Fee to be paid for every labourer produced for registration.

**72.** (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

Labour-contract to be executed.

(2) The labour contract shall be signed in the presence of the Registering officer by the person so registered, and, on behalf of the employer, by the garden-sardar who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that the labour-contract is in accordance with any instructions specified in the certificate of the garden-sardar; and, if he is so satisfied, shall, before the labourer signs the labour-contract personally explain it to him and, after it has been executed as aforesaid attest it, and certify at the foot thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden-sardar or local agent.

(4) Where any garden-sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may order the garden-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit.

**73.** Where the employer of a garden-sardar has in the instructions specified in the certificate of the garden-sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering officer shall register as a labourer any person appearing before him with the garden-sardar until medical certificate as aforesaid has been produced and shown to him.

Procedure when employer requires medical examination previous to registration.

**74.** Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may direct.

Fee of medical officer when in service for examination under section 73.

Garden-sardar when to remove labourer to labour-district.

**75.** Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72, no garden-sardar shall remove or attempt to remove him to a labour district, or attempt to induce him to go to a labour-district, or to leave the local area or aid or attempt to aid him in proceeding to a labour-district.

Garden-sardar to accompany labourers or send competent person with them.

**76.** (1) A garden-sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered.

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or persons so appointed by him shall accompany the labourers so proceeding.

No restriction on number of persons engaged by garden-sardar.

**77.** A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts.

Appointment in certain cases of garden-sardar to accompany labourers not engaged by him.

**78.** A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if the employer has no local agent, with the previous consent in writing of the employer, be appointed under section 76 as a competent person to accompany labourers other than those engaged by him.

Provision for way-bill.

**79.** (1) Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present to the officer before whom the labourers have executed a contract under section 72 a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe.

(2) Every such garden-sardar or other person as aforesaid shall also present the way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions therein contained for his guidance.

Garden-sardar to provide food and lodging for labourers and dependants on journey.  
Power for Magistrate in certain

**80.** Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall provide the labourers and their dependants (if any) with proper and sufficient food and lodging throughout the journey.

**81.** Where it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that the labourer or any person registered as his

dependant has suffered ill-treatment during the journey at the hands of the garden-sardar or person appointed by the garden-sardar accompanying the labourer, or that the garden-sardar or person so appointed has failed to provide the labourer or any of his dependants with proper and sufficient food and lodging, or has wilfully abandoned the labourer or any of his dependants, the Magistrate may either order the garden-sardar or person so appointed to pay to the labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by the labourer, and order the garden-sardar or person so appointed to pay to the labourer such reasonable sum as the Magistrate may think necessary to enable him with his dependants (if any) to return to the place at which he was registered, or to his native district, as to the Magistrate may seem fit.

cases to award compensation or cancel contract.

**82.** On the failure for the space of twenty-four hours of any garden-sardar or person appointed by him as aforesaid to comply with an order made under section 81 to pay any sum, the Magistrate may pay the same to or on behalf of the labourer concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Procedure on failure of garden-sardar to comply with order.

**83.** Any Magistrate or Embarkation Agent may, if himself a medical man, medically examine, and, if not himself a medical man, send for medical examination by a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to the Magistrate or Embarkation Agent, as the case may be, not to be in a fit state of health to proceed thereto.

Medical inspection of labourers en route.

**84. (1)** Where any labourer or dependant is, on examination under section 83, declared not to be in a fit state of health to undertake the journey to the labour district to which he intends to proceed, the Magistrate or Embarkation Agent may order the labourer or dependant to be detained at such place as he may think proper until in a fit state of health to undertake the journey.

Detention and return of labourer declared when en route to be unfit to travel.

(2) In any such case as is provided for by sub-section (1), the labourer or dependant, when in a fit state of health to undertake the journey, shall, if the garden-sardar or person appointed by the garden-sardar accompanying him, or the employer by whom the certificate of the garden-sardar was granted, or his local agent, so wishes, be forwarded to the labour-district, or, if otherwise, to his native district, or the place where he was registered as to the Magistrate or Embarkation Agent may seem fit.

(3) While any labourer or dependant is detained under sub-section (1), he shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the expense of the employer with whom the labourer, or the labourer to whom the dependant is attached, has contracted to labour.

Dependants  
of labourer  
when to be  
fed, etc.

**85.** (1) Where an order under section 84 has been made with reference to any labourer, any person registered as his dependant, and any other labourer being his or her wife or husband, shall be entitled—

- (a) until the labourer is in a fit state of health to undertake the journey to be fed, lodged, clothed and (if necessary) medically treated at the place where the labourer is detained, and at the cost of the employer with whom the labourer has contracted to labour, and
- (b) to be sent back to the same place (if any) as the labourer.

(2) Where an order has been made under sub-section (1) with reference to any dependant, the labourer to whom the dependant is attached shall thereupon, until the dependant is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained and at the cost of the employer with whom the labourer has contracted to labour; and the labourer shall, if he or she so wishes and if he or she is the husband, wife, son or daughter of the dependant, be sent back to the same place (if any) as the dependant.

(3) Where a labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated, or to be so sent back, any person registered as his or her dependant, and any other labourer, being the wife or husband of the labourer, shall be entitled, as the case may be—

- (a) to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained, and at the cost of the employer, until the dependant is in a fit state of health to undertake the journey to the labour-district, or
- (b) to be sent back to the same place as the labourer.

Payment of  
expenses of  
detention  
and return-  
journey of  
labourer.

**86.** Where a garden-sardar or person appointed by a garden-sardar accompanying any labourer or dependant fails to provide the labourer or dependant with food, lodging, clothing and medical treatment, or to send him back as required by section 84 or section 85, the Magistrate or Embarkation Agent may order the garden-sardar or person so appointed to pay such sum as the Magistrate or Embarkation Agent, as the case may be, may think necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of the labourer or dependant; and, on failure for the space of twenty-four hours of the garden-sardar or person so appointed to comply with the order, the Magistrate or Embarkation Agent, as the case may be, may pay the sum specified in the order to or on behalf of the labourer or dependant concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Representa-  
tive of em-  
ployer may

**87.** (1) Where a labour-contract has been executed by a garden-sardar on behalf of his employer, any local agent or other representative of the

employer may require the labourer to appear before the Superintendent for cancellation of his labour-contract. procure order from Superintendent cancelling the labour-contract on payment of expense of return.

(2) If, when the labourer appears under sub-section (1), such reasonable sum as the Superintendent may think necessary to enable the labourer and his dependants (if any) to return to the native district of the labourer or to the place at which he was registered, as to the Superintendent may seem fit, and such further sum (if any) by way of compensation as the Superintendent may think reasonable, are paid to the labourer in his presence, the Superintendent may declare the labour-contract cancelled, and, in that event, shall make an endorsement to the like effect on the labourer's copy of the labour-contract, and attest the endorsement with his signature.

88. (1) Where the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and has entered into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time. Cancellation of contracts of relatives.

(2) Where a claim is made under sub-section (1), the Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the local agent or representative of the claimant's employer to pay to the claimant such reasonable sum as the Superintendent may think necessary to enable him and his dependants (if any) to return to the same place as the labourer.

(3) On the failure for the space of twenty-four hours of the local agent or representative to comply with an order made under sub-section (2), the Superintendent may pay the sum specified in the order to or on behalf of the claimant concerned, and may recover the same from the employer by whom the certificate of the garden-sardar was granted, or from the local agent or representative who appears on behalf of the employer.

89. When an order is made under section 81, 86 or 88 for payment of the costs of the return journey of any labourer or other person, the Magistrate may order the garden-sardar or other person liable in respect of such costs to pay also the cost of providing such escort to accompany the labourer or other person during his return journey as the Magistrate may think necessary. Cost of escort for repatriated labourer.

## CHAPTER V.

### ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER CHAPTERS III AND IV.

90. When a notification has been published under section 3, prohibiting the recruiting, engaging, inducing or assisting, natives of India, or any specified class of natives of India, to emigrate from the whole or any specified part of a Province to any labour-district or any specified portion of a labour-district otherwise than in accordance with the provisions of this Act therein specified the Local Government may with the previous sanction of the Special provisions as to engagement of emigrants through garden-sardars.

Governor General in Council, by notification in the local official Gazette declare that specially employed garden-sardars, not being garden-sardars holding certificates granted under Chapter IV, may, in the part of the province specified in the notification under section 3, engage persons on behalf of their employers and assist persons so engaged to emigrate to such labour-district or specified portion of a labour-district subject to the following provisions, namely :—

- (a) The employer shall grant each garden-sardar specially employed by him under this section a permit in writing, in such form as the Chief Commissioner of Assam may by rule prescribe, signed and dated, specifying the name of the garden-sardar and the recruiting district in which alone the garden-sardar may engage persons on behalf of his employer and assist them to emigrate : Provided that no such permit shall be granted to a garden-sardar who has not resided at least six months on the estate of the employer.
- (b) The employer shall in the permit certify that the garden-sardar named therein is a person employed on his estate, and shall specify the nature of his employment and the period of his residence on the estate.
- (c) Every permit shall be presented by the garden-sardar named therein in person for countersignature to the Inspector or to the Magistrate having jurisdiction in the place where the garden-sardar resides, and shall not be valid or have effect unless and until it is so countersigned.
- (d) The Inspector or Magistrate may refuse to countersign any permit, for any reason, to be recorded in writing, which he may think sufficient, and shall refuse to countersign a permit unless he is satisfied that the garden-sardar named therein is employed on the estate of his employer and has resided at least six months on the estate, and is a fit person to engage persons and assist them to emigrate.
- (e) When a permit is duly countersigned the garden-sardar named therein may proceed to the recruiting district and there himself engage persons on behalf of his employer and assist them to emigrate, subject to the provisions of this Chapter.
- (f) Every garden-sardar so authorized shall, on his arrival in the recruiting district and before he engages any person to emigrate, in person or in writing, report his arrival, and the place at which he intends principally to reside, to the District or Sub-divisional Magistrate, and shall, at least three days before his departure from the recruiting district, similarly report his intended departure and furnish a list, in such form as the Local Government may

prescribe containing the names and descriptions of the persons whom he has engaged and is assisting to emigrate.

- (g) Every garden-sardar shall either himself accompany all persons so engaged by him to the labour-district in which the estate of his employer is situate, or send them there in charge of another garden-sardar holding a permit under this section from the same employer to engage persons in the same recruiting district.
- (h) No permit shall have effect for more than six months from the date of countersignature by the Inspector or Magistrate as aforesaid.
- (i) Any permit granted under this section may be cancelled in the recruiting district by the District Magistrate for any reasons, to be recorded in writing, which he may think sufficient. The fact of cancellation shall be endorsed by such Magistrate as aforesaid on the permit, and the permit shall thereupon become invalid and cease to have effect. A District Magistrate who cancels a permit under this clause shall give notice of such cancellation to the employer by whom it was signed and to the Inspector or Magistrate by whom it was countersigned.

**191.** Notwithstanding anything contained in section 90, the Local Government may, by notification in the local official Gazette, declare that—

Power to Local Gov. ernment to relax certain provisions of Act

- (a) in the case of contractors, sub-contractors and recruiters holding licenses granted under Chapter III, any of the requirements of that Chapter, or,
- (b) in the case of garden-sardars holding certificates granted under Chapter IV or holding permits granted and countersigned under section 90, any of the requirements of that Chapter or of that section, as the case may be,

may be dispensed with or relaxed on such conditions as may be prescribed in the notification.

**92.** Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of Chapters III and IV and of sections 90 and 91.

Saving of engagement of emigrants otherwise than under foregoing provisions of Act.  
Application of Act to persons engaged under this Chapter.

**93.** (1) The following provisions of this Act shall apply to the transport and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely :—

(a) in CHAPTER VI (TRANSPORT) :—

- (i) sections 94 and 95 (routes and transport by sea) ;
- (ii) sections 96 to 99 (passenger licenses) ;

<sup>1</sup> This section was substituted for the original section 91 by Act XI of 1908, s. 2, *infra*.



- (iii) sections 100 and 101 (Embarkation Agent's powers and returns by master);
- (iv) section 103 (medical officer);
- (v) section 104 (delay in departure);
- (vi) sections 107 to 110 (Magistrate's powers);
- (vii) section 112 (disinfection);
- (viii) section 113 (excess passengers);
- (ix) section 114 (breaches of Act and rules); and
- (x) section 116 (delegation of magisterial powers);
- (b) in CHAPTER VII (LABOUR-DISTRICTS):—
  - (i) section 122 (registers and returns);
  - (ii) section 123 (inspection); and
  - (iii) sections 159, 161 and 162 (repatriation);
- (c) in CHAPTER VIII (RULES):—
  - all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants.
- (d) in CHAPTER IX (PENALTIES AND PROCEDURE);
  - (i) sections 176, 177, 181, 182 and 183 (offences connected with transport by river); and
  - (ii) sections 185 and 186 (offences by employers); and
- (e) in CHAPTER X (MISCELLANEOUS):—
  - (i) section 215 (recovery of sums due); and
  - (ii) sections 218 to 223 (fines, etc.), Assistant Inspector, officers' powers, exemption, (prior notifications and repeal).

(2) Except as indicated in sub-section (1), nothing in Chapters II to IV inclusive or in Chapters VI to X inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts.

## CHAPTER VI.

### TRANSPORT.

#### *Routes, etc.*

Routes to be followed and rules observed.

**94.** Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour-district shall forward or take them by the prescribed route or one of the prescribed routes, and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge.

#### *Transport by river.*

Transport by sea to labour-districts

**95.** Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts.

**96.** (1) No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in his vessel has been granted to him under this Chapter by an Embarkation Agent duly empowered in that behalf by the Local Government.

Vessels to carry more than twenty passengers to be ordinarily licensed.

(2) The Local Government may, by notification in the local official Gazette, exempt from the provisions of this section any vessel or class of vessels.

**97.** (1) The master or owner of any vessel who desires to obtain a license under this Chapter to carry passengers in his vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

Application for license.

(2) Every application made under sub-section (1) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

**98.** Where the Embarkation Agent to whom an application is made under section 97, sub-section (1), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board.

Grant of license.

**99.** Such fee, not exceeding sixteen rupees, as the Local Government may with reference to the size of the vessel, by rule direct shall be paid for every license granted under section 98, and no license so granted shall be in force for more than one voyage :

Fee for license.

Provided that a license may, with the previous sanction of the Local Government, be granted under the said section to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees, and on such conditions, as the Local Government may, by rule, prescribe.

**100.** (1) Any Embarkation Agent may, in accordance with such rules as the Local Government may make in this behalf, direct, by order in writing, that, on any particular voyage or part of a voyage, any master licensed under this Chapter shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to the master.

Embarkation Agent may limit number to be received on board on any particular voyage.

(2) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this Chapter, be reckoned as one person only.

**101.** Every master licensed under this Chapter shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel, as the Local Government may, by rule, prescribe.

Master to make returns.

**102.** Every master licensed under this Chapter shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe.

Provisions, clothing, medical and other officers, cooks, etc.

Medical officer to be licensed.

**103.** No medical officer shall be appointed to any vessel in respect of which a license is granted under this Chapter, unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such a requisition.

*Departure of Passenger-vessels and Procedure during Voyage.*

Embarkation Agent may order departure of vessel if delay occurs.

**104.** Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted under this Chapter is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of the vessel to proceed on his voyage at once.

Master to receive way-bills from Embarkation Agent.

**105.** (1) No master licensed under this Chapter shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board in respect of whom way-bills are required by this Act or by the rules made thereunder.

(2) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in the way-bill.

(3) The Embarkation Agent shall send a copy of every way-bill granted under sub-section (1) to the Magistrate of the labour-district to which such labourers are proceeding.

Labourers not finally to leave vessel at any place other than that mentioned in way-bill.

**106.** No master licensed under this Chapter shall cause or permit any labourer entered in any such way-bill finally to leave his vessel at any place other than that named in the way-bill as the destination of the labourer:

Provided that nothing in this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as the disembarkation is not intended, or known to be likely, to be final, nor to prevent the final disembarkation of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity;

Provided also that every such accident or necessity as aforesaid shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which the accident has occurred or the necessity has arisen.

Master to stop his vessel at certain places where there is a Magistrate.

**107.** (1) Every master licensed under this Chapter shall stop his vessel carrying passengers, being natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct.

(2) The master shall, on arriving at such a place as aforesaid, immediately report to the Magistrate the number of the crew and other persons on board

the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

**108.** (1) Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, go on board the vessel and inspect it and all persons, being natives of India, on board.

Power for Magistrates to inspect vessels.

(2) The master and officers of any such vessel as aforesaid shall afford to the Magistrate every facility for inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any) which have occurred on board, and any other facts affecting the health of the passengers.

**109.** Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, regulate the communication between the vessel and the land, and prohibit all persons from leaving the vessel, and all persons on land from proceeding on board.

Power for Magistrates to regulate communication between vessels and land.

**110.** (1) Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board a vessel within the local limits of his jurisdiction, in respect of which a license is granted under this Chapter, are, or are likely to be, affected with any dangerously infectious or contagious disease, detain the vessel and depute the civil medical officer of the district or any other qualified medical officer to inspect such passengers as aforesaid and to report on their health, stating whether any or what measures are requisite for the removal or prevention of the dangerously infectious or contagious disease.

Power for Magistrates to detain vessels for inspection and to detain sick native passengers.

(2) On receiving the report of the medical officer so deputed, the Magistrate may order any such passenger as aforesaid who is suffering from any dangerously infectious or contagious disease to be disembarked and detained for medical treatment.

**111.** (1) Where, on receiving the report of a medical officer deputed under section 110, sub-section (1), it appears to a Magistrate that a labourer or any dependant of any such labourer, though not suffering from a dangerously infectious or contagious disease, is not in a fit state of health to proceed to the labour-district in which the labourer has contracted to labour, he may order the labourer or dependant to be detained, and shall cause all necessary arrangements to be made for his accommodation, support and medical treatment.

Detention of sick labourers by Magistrate.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer of the labourer concerned.

**112.** (1) Where, in the opinion of a medical officer deputed under section 110, sub-section (1), it is dangerous to the health of the general body of the passengers to allow the vessel to proceed until measures have been taken to cleanse and disinfest her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out those measures.

Power for Magistrate to detain vessel to be cleansed and disinfested.

(2) Any expenditure incurred under sub-section (1) may be recovered from the master or owner of the vessel.

Measures to be taken if excess number of native passengers found on board.

**113.** (1) Where it appears to a Magistrate making an inspection of a vessel, in respect of which a license is granted under this Chapter, that the number of passengers on board, being natives of India, is larger than the number specified in the license or than the number specified in an order of an Embarkation Agent made under section 100, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found.

(2) Any expenditure incurred in maintaining passengers detained under sub-section (1) and in forwarding them to their destination may be recovered from the master or owner of the vessel.

Infraction of the Act and rules to be reported.

**114.** Where it appears to a Magistrate making an inspection of a vessel in respect of which a license is granted under this Chapter, that any of the provisions of this Act or of any rule thereunder have not been complied with in respect of the vessel, he shall report the fact to the Embarkation Agent by whom the license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions as aforesaid have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

Power to make rules regulating disembarkation and other matters.

**115.** (1) The Local Government may make rules to regulate—

- (a) the disembarkation of labourers and their dependants, and their inspection and accommodation on arrival at their destinations;
- (b) the detention of labourers and their dependants at debarkation depôts;
- (c) the forwarding of labourers to their destinations and the closing and return of way-bills by employers.

(2) Any expenditure incurred in pursuance of any rules made under sub-section (1) may be recovered from the employers of the labourers concerned.

Deputation of other officer to discharge the functions of a Magistrate under sections 107 to 114.

**116.** The District or Sub-divisional Magistrate may authorize any subordinate Magistrate, medical officer or officer of police above the rank of sub-inspector to exercise the powers and authorities conferred, and to perform the duties imposed, on a Magistrate under sections 107 to 114.

## CHAPTER VII.

### PROVISIONS AS TO THE LABOUR-DISTRICTS.

#### *Annual Rate payable by Employers.*

Annual rate payable by employer.

**117.** (1) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the local official Gazette, direct.

(2) On the failure of an employer, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under sub-section (1), the same may be recovered from him.

*Local labour-contracts.*

**118.** (1) Any employer may enter into a labour-contract for a term, not exceeding one year commencing from the date of the execution of the labour-contract, with any native of India within the labour-district in which the estate to which the labour-contract refers is situate. Labour-contracts executed in labour-districts between employer and native direct.

(2) Where an employer has under sub-section (1) executed a labour-contract within a labour-district, he shall, within one month from the date of the execution of the labour-contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the labour-contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the labour-contract to the labourer and the other to his employer.

**119.** When, for the first time after the registration, under section 118, sub-section (2), of a labour-contract with a labourer, the Inspector visits the estate on which the labourer is employed, the employer shall cause the labourer to appear before the Inspector for the purpose of having his contract verified, and the labourer may thereupon apply to the Inspector to cancel his labour-contract; and, if the labourer shows cause sufficient, in the opinion of the Inspector, to justify the cancellation of his labour-contract, the Inspector shall cancel the same and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect. Verification and cancellation of such contracts.

**120.** The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119. Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.

**121.** (1) Notwithstanding the provisions of section 118, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from date of the execution of the labour-contract, if he appears, or deposes some person to appear on his behalf, with the native of India before the Inspector or Magistrate within the local limits of whose jurisdiction the estate to which the labour-contract refers is situated. Labour-contracts executed within labour-district before Inspector or Magistrate.

(2) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest execution with his signature.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of the labour-contract shall then be given to the labourer and the other to his employer or the person deputed as aforesaid.

(4) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour-contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

#### *Employers' Returns and Magistrates' Inspections.*

Registers to be kept and returns made by employers.

**122.** (1) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and of their dependants, in such form, and shall make to the Inspector, within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe.

(2) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits, and may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

Power for Inspector, etc., to inspect lands and houses and to make requisitions and inquiries.

**123.** Any Inspector or Magistrates, or any person authorized by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate, and may require that all such labourers or other natives of India as aforesaid, or any particular class or classes or individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them; and the employer shall be bound to comply with every requisition and to answer every inquiry so made to the best of his ability.

#### *Regulation of Labour.*

Schedule of daily tasks to be prepared.

**124.** (1) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared.

(2) One copy of every schedule prepared under sub-section (1) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof, in such languages as the Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates.

(3) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month. The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

**125.** (1) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day. Limitations on tasks and payment of wages.

(2) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; and, failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

(3) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid.

**126.** (1) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that such reduction as is specified in the order be made in the scheduled daily tasks. Provisions for revision of schedule by Inspector subject to appeal to Committee.

(2) The employer shall at once make the reduction so ordered, but may, if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule.

(3) Every Committee summoned under sub-section (2) shall consist of—

(a) the Inspector.

(b) some person to be nominated by the employer whose schedule is to be inquired into, and,

(c) if practicable, a medical officer.

(4) Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

(5) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

**127.** (1) Where the Committee, or a majority thereof, is of opinion that the scheduled daily tasks or any of them are unreasonable, the Committee shall order them to be modified and reduced in such manner as it may think fit. Committee to revise schedule.



(2) The employer shall thereupon alter the schedule accordingly, and copies and translations of the same so altered shall be filed and affixed in the manner provided by section 124, and shall, as between him and the labourers concerned, take the place of the former schedule.

Provision  
for weakly  
labourers.

**128.** (1) Notwithstanding anything contained in any schedule of daily tasks, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna and a half per diem, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna and a half per diem, or diet on a scale to be approved by the Inspector.

(2) Any subsistence-allowance ordered under sub-section (1) may be recovered from the employer of the labourer concerned.

#### *Incapacity for Labour.*

Inspector  
may suspend  
contract of  
any labourer  
temporarily  
unfitted for  
labour.

**129.** (1) The Inspector within the local limits of whose jurisdiction a labourer is employed may release the labourer, for such period as he thinks fit, from performing his labour-contract, if he is, in the opinion of the Inspector, temporarily unfitted, by reason of sickness or any other sufficient cause, for the performance thereof.

(2) Every release granted under sub-section (1) shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve.

(3) Every labourer released as aforesaid shall, during the release, receive such subsistence-allowance from his employer as the Inspector may think sufficient.

Labourer  
absent from  
sickness.

**130.** (1) Where any labourer is compelled, by reason of sickness, to absent himself from work, he shall receive from his employer, for each day on which he is so absent, subsistence-allowance at the rate of one anna and a half, or, if in hospital, sick-diet on a scale to be approved by the Inspector.

(2) Where the period during which a labourer is so absent exceeds the total number of thirty days in any one year, and the employer, as soon as that number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of that number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna and a half for each day so in excess.

(3) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or a labourer, endorse on the labour-contract of the labourer, after such inquiry as he may think necessary, the number of days so to be added to the term thereof :

Provided that an employer, who omits to apply for such endorsement as aforesaid at the time when the Inspector is actually visiting the estate, shall, in the absence of sufficient reasons to the contrary shown to the satisfaction of

the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned.

**131.** (1) Where, in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver the certificate to the employer of the labourer or to the representative of the employer, and, from the date of the certificate, the labour-contract of the labourer shall wholly determine.

Discharge of labourer permanently incapacitated.

(2) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(3) Every sum so awarded and any such subsistence-allowance as is provided for by section 129 or section 130 may be recovered from the employer of the labourer concerned.

*Accommodation for Labourers.*

**132.** Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, prescribe.

House-accommodation, water-supply and sanitary arrangements for labourers.

**133.** (1) Where the food-grain commonly used by any class of labourers is not procurable by them at reasonable prices in the local markets near the estate on which they are employed, their employer shall be bound to supply them therewith at a reasonable price.

Supply of food-grain for labourers.

(2) The Local Government may, by notification in the local official Gazette, declare, either generally or for each district or part of a district, what shall, for the purposes of this section, be deemed to be a reasonable price.

**134.** (1) Subject to such rules as the Local Government may make in this behalf, any Inspector may, by order in writing, —

Provision for rationing.

(a) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale and for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in the order ;

(b) direct that any specified labourer shall be exempt from the effect of any general order so made, if he is satisfied that the labourer is able to earn a full wage and desires to provide himself with proper and sufficient food ;

(c) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew that direction for a like term.

Provision for hospital accommodation and medical attendance.

Inquiry whether employer has failed to provide accommodation, etc., as required by the rules.

Report by Inspector and inquiry by Committee.

(2) The cost of each labourer's ration furnished to him in accordance with any direction given under sub-section (1) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which the direction is in force.

**135.** Where, in the opinion of the Inspector, an employer does not provide such hospital-accommodation in a suitable place available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of his labourers, as the Local Government may direct, the Local Government may require the employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sum, proportionate to the number of labourers so employed, as it thinks fit.

**136.** (1) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, inquire whether the employer in charge of the estate has provided for his labourers' house-accommodation, water-supply, sanitary arrangements, food-grains and rations in accordance with any rules made by the Local Government under section 132 or 131 or any notification issued under section 133.

(2) At the instance of any Inspector or Assistant Inspector, a similar inquiry may be made by a Magistrate.

(3) Every inquiry under this section shall be made at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt with as if it were an inquiry by a Magistrate under the Code of Criminal V of 1898. Procedure, 1898.<sup>1</sup>

*Localities unfit for the residence of labourers.*

**137.** (1) Where, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of his opinion to the District Magistrate, who shall forthwith, by order in writing, summon a Committee to inquire into the matter.

(2) The District Magistrate may also of his own motion summon a Committee, where, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers.

(3) Every Committee summoned under this section shall consist of—

- (a) the District Magistrate ;
- (b) the Inspector ;
- (c) the civil medical officer of the district ; and
- (d) one or more employers of labourers :

<sup>1</sup> General Acts, Vol. V.

(4) Provided that, if the District Magistrate is unable to procure the service on the Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on the Committee.

**138.** Where it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer—

*Inquiry by Committee by order of Local Government.*

(a) that an estate or portion of an estate, is for any of the reasons given in section 137, unfit for the residence of labourers or of any particular class of labourers, or

(b) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 142,

the Local Government may direct the District Magistrate to summon a Committee under section 137; and the District Magistrate shall forthwith proceed to summon a Committee accordingly.

**139.** Every Committee summoned under section 137 or section 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing it relates, and shall hear and record such information on the subject as the owner of the estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it.

*Proceedings of Committee.*

**140.** (1) Where the Committee, or a majority thereof, is of opinion that the estate or portion, or any part of the estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, the Committee shall record a finding to that effect.

*Finding of Committee and consequences.*

(2) Where a finding has been recorded under sub-section (1), no labourer, or no labourer of the particular class to which the finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of the estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(3) Where a labourer is released under sub-section (2) from the performance of his labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district or, where the finding relates only to a portion of an estate, on any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of the labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

**141.** The Local Government may call for the proceedings of any Committee summoned under section 137 or section 138, and, if the finding of the

*Power for Local Government to*

pass orders  
on proceed-  
ings of Com-  
mittees.

Committee is not unanimous, the Local Government may record any finding thereon which the Committee was competent to record, and the finding so recorded by it shall have the same effect as the finding of a Committee under section 140.

Excessive  
mortality  
on estates.

**142.** Where it appears to the Local Government or to the District Magistrate that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years, as the case may be, than seven per cent., the Local Government, or the District Magistrate, may depute the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, namely :—

- (a) the cause or causes of the mortality ;
- (b) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of the estate or portion thereof, or of the employer in charge of the estate or portion, causing or contributing to the mortality ;
- (c) the fitness or otherwise of the estate or portion for the residence of labourers :

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or the District Magistrate, may direct an inquiry under this section limited to that particular class of labourers.

Medical  
officer to  
report.

**143.** The medical officer deputed under section 142 shall, as soon as may be, inquire into the matters referred to therein and shall hear and record such information relating to those matters as the owner of the estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect the estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information, so recorded and the notes of his inspection of the estate or portion, and the Local Government shall cause the employer to be furnished with a certified copy of such report.

Power for  
Local Gov-  
ernment to  
declare estate  
unfit for  
residence.

**144.** Where the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that the mortality was caused by the want, on the part of the owner of the estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption of proper and available sanitary measures, or that the estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may make a declaration in writing to that effect, and the declaration so made shall have the same effect as the finding of a Committee under section 140.

**145.** (1) Where it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the foregoing provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or of that class of labourers, as the case may be, he shall, with the previous sanction of the District Magistrate of the district in which the estate or area is situate, give a certificate to that effect signed by him.

Power for Inspector to certify fitness of estate or portion found or declared to be unfit.

(2) On the grant of a certificate under sub-section (1), all such labourers as are mentioned or referred to in section 140, sub-section (3), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

*Complaints made by Labourers.*

**146.** Where a labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer or such person as aforesaid, of any of the provisions of this Act or of any rule thereunder, the person to whom the statement is made shall forthwith send the labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate :

Labourer wishing to complain of personal ill-usage or breach of Act to be sent by employer to Inspector or Magistrate.

Provided that, where more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending them to such Inspector or Magistrate as aforesaid, give the Inspector or Magistrate notice, in writing, of their complaint.

**147.** (1) Where a complaint is made to an Inspector or Magistrate under section 146, or where an Inspector or a Magistrate receives, under that section, notice in writing of a complaint, or where an Inspector or a Magistrate has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any such breach as is mentioned in section 146 in respect of, a labourer, the Inspector or Magistrate shall, as soon as may be, proceed to some place, not more than ten miles from the principal place of business of the employer, situate within the local limits of his jurisdiction and inquire into the matter complained of :

Inspector or Magistrate how to proceed in case of complaint.

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that the ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction the ill-usage or breach has been committed.

(2) For the purposes of every inquiry made under sub-section (1), the Inspector or Magistrate may summon and examine any person as a witness.

**148.** (1) Where, upon an inquiry made under section 147 on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is

Untrue or frivolous complaints.

untrue or frivolous or vexatious, he shall dismiss the complaint; and in that event shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

(2) Every endorsement made under sub-section (1) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

Award of compensation to employer.

**149.** (1) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of the expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation so awarded on the complainant's copy of the labour-contract.

(2) The complainant shall be bound to pay the amount awarded under sub-section (1); and, in default of payment, his labour-contract shall not be deemed to have determined until he has worked off the amount at the rate of one day's labour for each four annas of the same.

Complaints disclosing grounds for further proceedings.

**150.** (1) Where, upon an inquiry made under section 147 by a Magistrate or by an Inspector who is a Magistrate, the Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

(2) Where the Inspector is not a Magistrate and is of such opinion as aforesaid, he shall without delay send the complainant and his witnesses (if any) to the nearest Magistrate, who shall thereupon dispose of the case according to law.

Recovery of arrears of wages and compensation.

**151.** (1) Where, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate, that the wages of the labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or where it is proved to the satisfaction of a Magistrate that the wages of a person whose labour-contract has determined have been withheld for any period after determination, the Magistrate may award to such labourer or person as aforesaid the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to the Magistrate seems just.

(2) On the failure of an employer to pay any amount awarded under sub-section (1), the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned.

Power to cancel contract on conviction of employer or accumulation of arrears of wages.

**152.** (1) Where it is proved to the satisfaction of a Magistrate—

- (a) that an employer, or any person placed by an employer in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of the labourer, and, under the Code of Criminal Procedure, 1898,<sup>1</sup> triable exclusively by the Court of Session; or

<sup>1</sup> General Acts, Vol. V.

- (b) that an employer or any person placed by an employer in authority over a labourer has been twice convicted of any such offence as aforesaid against the labourer and under the said Code triable by a Magistrate ; or
- (c) that the wages of a labourer are in arrear to an amount exceeding the whole of his wages for four months ; or
- (d) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person as aforesaid ;

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of the labourer and award to him compensation not exceeding thirty rupees.

(2) Every cancellation under sub-section (1) shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or, if that copy is not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

**153.** (1) Where it appears to the Local Government that the condition of the labourers on an estate, or of any class or any considerable number of them, is unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort, the Local Government, after such inquiry as it thinks necessary, may direct that the labour-contracts of all such labourers be cancelled.

Power to Local Government to cancel contracts of labourers whose condition is unsatisfactory owing to insufficiency of earnings.

(2) No labour-contract shall be cancelled under this section until the employer has been given an opportunity for showing cause why it should not be cancelled.

**154.** Where the labour-contract of a labourer is or has been cancelled or has determined under section 119, section 120, section 131 or section 152, the Inspector or Magistrate, as the case may be, may, in his discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer employed, on any estate belonging to the same employer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been so cancelled or has so determined.

Power to cancel contract of labourer related to labourer whose contract is cancelled or determined.

#### *Determination of Labour-contracts.*

**155.** (1) Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of determination or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect ; and, where the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate as aforesaid.

Endorsement of determination on labour contract

(2) The employer shall give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof.



Power to  
redeem  
labour-  
contract.

**156.** (1) Where a labourer is able and desirous to redeem the unexpired term of his labour-contract, or the labour-contract of any member of his family, by payment of a sum equivalent to the value of the unexpired term, the labourer may require his employer to take him, or allow him to go, before the Inspector within the local limits of whose jurisdiction he is employed; and, on his depositing such sum as aforesaid with the Inspector, the Inspector shall give notice to the employer to show cause within one week why the labourer should not be released from his contract.

(2) If no sufficient cause is shown as aforesaid, the Inspector shall require the labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from his contract, or, if that copy is not forthcoming, shall deliver to the labourer a certificate under his hand to the like effect; and shall in either case, hold the sum so deposited to the credit of the employer of the labourer.

(3) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the third and fourth years of the original term of the contract:

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour-contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract unless on the payment of two rupees for each month of the said unexpired portion.

Power to  
equalize  
terms of  
contract  
in case of  
husband  
and wife.

**157.** (1) Where the labour-contract of a labourer determines at a time different from that of any other labourer who is the wife or husband of that labourer, the Inspector or Magistrate may, on the joint application of both labourers, equalize the terms of their respective contracts, and may, for this purpose, add to the term of the contract which expires first, and deduct from the term of the contract which expires last, in such proportions as may appear to him to be equitable.

(2) Every addition or deduction from the term of any labour-contract made under sub-section (1) shall be certified by the Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if those copies are not forthcoming, by writing under the Inspector's or Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

#### *Repatriation of Labourers and others.*

Repatriation  
of labourer  
whose labour-  
contract has  
determined  
under  
section 131.

**158.** (1) Where any labourer, not being a native of the labour-districts, whose labour-contract has determined under section 131, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by the labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise as shall, in the

Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer back to his native district. The amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

(2) On the failure for the space of twenty-four hours of an employer to comply with an order made under sub-section (1), the Inspector may expend the amount specified in the order, and may recover the same from the employer of the labourer concerned.

**159.** Where any person, being a native of India but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or, being a dependant of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any), to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Labour Transport Fund constituted under section 218.

**160.** (1) Subject to any orders which the Local Government may make in this behalf, the Inspector or Magistrate may, if he thinks fit, detain and may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section 119 or section 120 on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer on whose estate the labourer concerned was under contract to labour.

**161.** (1) Where it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf the person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one who is accompanying or conveying the person or has forwarded or otherwise assisted him to emigrate to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why the person should not be sent back to his native district.

(2) Where the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that such person as aforesaid was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to that effect and shall, if neces-

sary, detain the person and shall send him, if he so desires, together with any other persons dependant on him, back to his native district.

(3) Subject to any orders which the Local Government may make in this behalf, any expenditure incurred under this section may be recovered from the employer on whose behalf the person concerned was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or, if there is no employer, the person who is accompanying or conveying the person concerned or has forwarded or otherwise assisted him to emigrate to any labour-districts or estate.

Arrange-  
ments may  
be made for  
escorting  
persons  
ordered  
to be  
repatriated.

**162.** (1) Where a labourer or other person is sent back to his native district under section 158, 160 or 161, the Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer or person is actually conveyed to his native district.

(2) Any expenditure incurred under sub-section (1) may be recovered as part of the amount expended in sending the labourer or other person back to his native district.

## CHAPTER VIII.

### RULES.

General  
power for  
the Local  
Government  
to make  
rules.

<sup>1</sup> **163.** (1) In addition to the powers hereinbefore conferred, the Local Government may make rules to carry out any of the purposes and objects of this Act in the Province.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) define and regulate the powers and duties of the several officers appointed by it under this Act ;
- (b) prescribe what returns and reports shall be made under this Act by any such officers as aforesaid or by any contractors or local agents within the Province and the form in which they shall be respectively so made ;
- (c) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the Province ;
- (d) prescribe the <sup>2</sup> fees to be paid for any license granted under this Act by any officer appointed by it, and for the registration of labourers or their dependants in any district in the Province ;
- (e) prescribe the particulars to be registered by a Registering-officer in respect of each person who is brought before him in any district in the Province for registration as a labourer or dependant ;

<sup>1</sup> For rules made under this section by the Government of Madras to regulate the engagement and transport of labourers and their dependants, see Fort St. George Gazette, 1905, Pt. I, p. 893.

<sup>2</sup> As to fee payable for a recruiter's license, see Fort St. George Gazette, 1908, Pt. I, p. 812.

- (f) provide for the management and regulation of contractors' dépôts and of hospital dépôts situate within the Province, and for the support and medical treatment of labourers and their dependants passing through such dépôts ;
- (g) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district in the Province ;
- (h) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district ; provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer ; and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels ;
- (i) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the Province, and the daily allowance to be issued to each labourer and dependant during the journey through the same ; prescribe the number of officers, cooks and other servants to be carried on board such vessels ; and provide generally for the accommodation of labourers and their dependants on such vessels ;
- (j) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels, while in transit through the Province ;
- (k) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants shall travel to the labour-districts ;
- (l) prescribe the clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour-districts through the Province ;
- (m) require dépôts and rest-houses to be provided by and at the cost of employers, contractors or agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such dépôts and rest-houses ;
- (n) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, contractors or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, contractors or agents for the carriage of labourers,

- emigrants under Chapter V and dependants when suffering from sickness ;
- (o) regulate the food to be supplied by and at the cost of employers, contractors or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food ;
  - (p) regulate the water-supply to be maintained by and at the cost of employers, contractors or agents for the use of labourers, emigrants under Chapter V and dependants ;
  - (q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, contractors, or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district ;
  - (r) regulate the arrangements to be made by and at the cost of employers, contractors or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district ;
  - (s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province ;
  - (t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, contractor, agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, contractor or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

## CHAPTER IX.

### PENALTIES AND PROCEDURE.

Recruitment,  
etc., in con-  
travention

**164.** Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of

any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**165.** Whoever, being a recruiter, wilfully gives false information to a Registering-officer regarding the name, caste, native district or village of any person produced before such officer for registration as a labourer or regarding any other particulars required to be entered in the register prescribed by section 34, sub-section (2), shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

**166.** Whoever, being a recruiter,—

- (a) removes, or attempts to remove, any person to a *dépôt* before he has been registered under section 34, or induces or attempts to induce him to go to a *dépôt* or to leave the local limits of the jurisdiction of the Registering-officer before whom he ought to be brought under section 33, or aids or attempts to aid him in going to a *dépôt* or in leaving any such local limits as aforesaid before he has been so registered; or
- (b) induces or attempts to induce any person who has been so registered to proceed to any place other than the *dépôt* which has been established by the contractor on whose behalf the recruiter is licensed, or conveys or attempts to convey him to such place;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees in respect of every such person.

**167.** (1) Whoever, being a recruiter or a person deputed by a recruiter to accompany labourers to a *dépôt*, fails to provide any labourer or any dependant whom he accompanies on the journey to the *dépôt* with proper and sufficient food and lodging, or otherwise ill-treats the labourer or dependant on the journey, shall be punishable with fine which may extend to fifty rupees; and in default of payment of the fine within twenty-four hours, with imprisonment for a term which may extend to one month.

(2) The convicting Magistrate may award the whole or any portion of any fine levied under sub-section (1) as compensation to the labourer in respect of whom, or of whose dependant, the failure or ill-treatment has occurred.

**168.** (1) Any labourer engaged by a recruiter who, having been registered under section 34, without reasonable cause refuses or neglects when at the *dépôt* to execute, in accordance with the provisions of section 44, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to the amount of the expense incurred in registering him and conveying him to the *dépôt* and maintaining him therein; and, in default of payment of the fine, with imprisonment for a term which may extend to one month.

of Act or  
notification.

Wilful mis-  
description  
by recruiter.

Recruiter  
removing,  
etc.,  
unregistered  
person.

Recruiter  
not  
supplying  
proper food,  
etc.

Labourer  
refusing  
without  
reasonable  
cause to  
execute  
contract at  
*dépôt*.

(2) Any labourer so punished may be forthwith discharged from the dépôt.

(3) Every fine levied under sub-section (1) shall be paid to the contractor, sub-contractor or recruiter by whom such expense as aforesaid was incurred.

Labourer  
refusing  
to execute  
contract  
with garden-  
sardar.

**169.** (1) Any labourer registered under section 69 who without reasonable cause, refuses or neglects to execute, in accordance with the provisions of section 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

(2) Every fine levied under sub-section (1) shall be paid to the garden-sardar by whom such expense as aforesaid was incurred.

Garden-  
sardar  
failing to  
report  
himself, etc.

**170.** Whoever, being a garden-sardar holding a certificate under Chapter IV,—

- (a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate ; or
- (b) fails, without sufficient cause, to return to his employer within the time specified in his certificate ; or
- (c) fails to account for the money advanced to him by his employer for the purpose of engaging labourers ;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both ;

and may, if a labourer under a labour-contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service.

Garden-  
sardar, etc.,  
abandoning  
labourers,  
etc.

**171.** Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under section 55 or section 76 to accompany labourers to a labour-district,—

- (a) wilfully abandons any labourer or his dependant on the way to the labour-district ; or
- (b) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance with section 72 ; or
- (c) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of the garden-sardar before he has executed a labour-contract as aforesaid or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area as aforesaid before he has executed such a labour-contract ;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

**172.** (1) Whoever, being a garden-sardar holding a certificate under Chapter IV,—

Garden-sardar making over labourers to contractors, etc.

- (a) makes over to any contractor, sub-contractor, or recruiter, or to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer; or
- (b) places any such person as aforesaid in a contractor's depôt or in the place of accommodation provided by a recruiter in accordance with the provisions of section 29, sub-section (2); or
- (c) allows any person engaged as a labourer by any contractor or sub-contractor or recruiter to share the accommodation provided by him under section 62;

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.

**173.** Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section 79, sub-section (1), or to carry out any of the instructions entered in the way-bill, shall be punishable with fine which may extend to twenty rupees.

Garden-sardar failing to comply with instructions endorsed on way-bill.

**174.** Whoever,—

- (a) being a garden-sardar employed under a permit to engage persons and assist them to emigrate in accordance with the provisions of section 90, infringes any of the provisions of that section; or,
- (b) being a garden-sardar employed under the control of an agency or association to engage persons and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section;

Unlawful engagement of emigrants by garden-sardar.

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

**175.** Whoever, being a local agent licensed under section 64 or a selecting agent licensed under section 65, retains or acquires any interest in the business of a contractor or works for a contractor for hire or reward, shall be punishable with fine which may extend to one thousand rupees.

Local agent or selecting agent working with contractor.

**176.** (1) Whoever,—

- (a) being a master not licensed under section 97, in contravention of section 96, sub-section (1), knowingly receives on board his vessel more than twenty passengers being natives of India; or,

Master receiving native passengers on board in



contravention  
of Act.

- (b) being a master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district ;

shall be punishable with fine which may extend to two hundred rupees for each passenger so received.

(2) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (2).

Fraudulent  
alteration of  
vessel after  
grant of  
license.

**177.** Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent shall be punishable with fine which may extend to two hundred rupees.

Master not  
complying  
with section  
102.

**178.** Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

Master not  
complying  
with order,  
under section  
104.

**179.** Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day during which he fails to comply with the order after the day on which the order was received by him.

Master  
permitting  
labourer to  
leave vessel  
contrary to  
section 106.  
Master  
wilfully  
omitting to  
stop vessel  
at certain  
places.

**180.** Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

**181.** Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees.

Person  
disobeying  
Magistrate's  
order as to  
communica-  
tion between  
vessel and  
land.

**182.** Whoever disobeys any order made under section 109, by a Magistrate, shall be punishable with fine which may extend to two hundred rupees.

Master or  
medical  
officer  
disobeying or  
neglecting to  
enforce rules.

**183.** Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees.

**184.** Whoever, having executed a labour-contract,—

- (a) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district ; or,
- (b) without reasonable cause, refuses or neglects to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent ;

Labourer  
deserting,  
etc., after  
registration.

shall be punishable with imprisonment for a term which may extend to one month.

**185.** Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register, or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees.

Employer  
refusing or  
omitting to  
keep  
registers,  
etc.

**186.** Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry or omits to comply with any requisition made under section 123, shall for every such offence be punishable with fine which may extend to two hundred rupees.

Employer  
or other  
person  
obstructing  
inspection  
under section  
123.

**187.** Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees.

Employer  
or other  
person  
compelling  
labourer to  
perform  
labour for  
which he is  
unfit.

**188.** Whoever buys any rations which have been furnished under section 134 to a labourer, and whoever, being a labourer, sells any rations so furnished to him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees.

Persons  
buying  
labourer's  
rations.

**189.** (1) Whoever, being an employer, wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees ; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

Employer  
omitting to  
provide  
house-  
accommoda-  
tion, etc.

(2) If the employer wilfully omits to comply with the order within the time so fixed, he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues.

(3) If the employer fails to pay the fine imposed under sub-section (2) the person on whose account he has been acting shall be liable to pay the same.

**190.** Whoever, being an employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punish-

Employer  
neglecting  
to provide

hospital-  
accommoda-  
tion.

Employer  
causing  
labourer to  
reside on  
estate  
declared  
unfit for  
residence.

Unlawful  
absence from  
work.

able with fine which may extend to two hundred rupees for each week during which the default continues.

**191.** Where any estate or portion thereof has been found under section 140, or declared under section 144, unfit for the residence of labourers or any class of labourers, as the case may be, every employer who, until a certificate has been given under section 145, causes or permits such labourers or class of labourers to reside or labour upon the estate or portion shall be punishable with fine which may extend to two hundred rupees.

**192.** (1) Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of absence. When any employer so sends any statement, he shall, at the same time, notify to each labourer concerned the fact that he has done so.

(2) Every Inspector who receives any statement so sent shall, if the employer so desires, when next visiting the estate on which the labourers to whom the statement relates are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day of absence, endorse the days of absence on the labour-contract of the labourer, and add them to the term of the contract. •

(3) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due inquiry, endorse the days of absence on, and add them to the term of the labour-contract :

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned.

*Explanation.*— Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

**193.** Whoever, being a labourer, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be punishable with imprisonment for a term which may extend to fourteen days ; and, in case the absence has extended to twenty days in any two consecutive months, shall be punishable with imprisonment for a term which may extend to one month.

Labourer  
absent  
without  
cause.

*Explanation.*—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

**194.** Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing in such form as the Local Government may prescribe containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month or previously, have been arrested or have returned to his service during the preceding month. Statement of deserters.

**195.** (1) Where any labourer deserts from his employer's service, the employer, or any person authorized by him in this behalf, may, without a warrant and without the assistance of any police-officer, arrest the labourer wherever he may be found : Deserter may be apprehended without warrant.

Provided that, if the labourer is found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

(2) Every police-officer shall assist in arresting any such labourer if so required by the employer or person authorized by him in this behalf.

(3) Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest ; and if he fails to do so shall be punishable with fine which may extend to two hundred rupees.

**196.** (1) The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer. Procedure at Police-station.

(2) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(3) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send the labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(4) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in sub-section (2) or sub-section (3), the Magistrate shall forward the statements and report received by him from the police to the Magistrate, within the local limits of whose jurisdiction such estate is situate. He shall also,

when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such other Magistrate as aforesaid.

(5) On receipt of such statements and report the Magistrate within the local limits of whose jurisdiction the estate is situate may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry the Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

Procedure on  
complaint of  
desertion.

**197.** Where an employer or a person acting on behalf of an employer complains to a Magistrate that a labourer has deserted from the employer's service, the Magistrate may, without previously examining the complainant, issue a summons for the attendance of the labourer, or a warrant for his arrest, and fix a day for hearing complaint.

Punishment  
for desertion.

**198.** (1) Whoever, being a labourer, deserts from his employer's service, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both.

(2) For a second conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(3) For a third and every subsequent conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Compensa-  
tion for  
wrongful  
arrest.

**199.** (1) Where it appears to a Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, the Magistrate may impose a fine, which may extend to fifty rupees, on the employer or person acting on his behalf by whom or at whose instance the labourer was arrested.

(2) The Magistrate may in his sentence direct that the whole or any part of the fine levied under sub-section (1) be paid by way of compensation to the labourer so arrested.

Cancellation  
of contract  
by desertion.

**200.** Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of the labourer, and shall endorse on his copy of the contract a certificate of the cancellation; or, if that copy is not forthcoming, he shall give to the labourer a written certificate to the like effect.

Penalty for  
drunkenness  
or neglect  
of sanitary  
regulation.

**201.** Whoever, being a labourer, is guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which the labourer is employed, shall be punishable with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees.

**202.** (1) The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for the employer, may apply to the Magistrate that the labourer be made over to him for the purpose of completing his labour-contract. Portion of sentence may be cancelled on application of employer.

(2) On an application being made under sub-section (1), the Magistrate may, if he thinks fit, order that the labourer be made over or forwarded to his employer; and in that case the Magistrate shall cancel the sentence passed on the labourer or any unexpired portion of the same, and shall endorse on his copy of the labour-contract a certificate of the cancellation, or, if that copy is not forthcoming, shall give him a written certificate of the cancellation.

(3) Nothing in this section shall be deemed to affect the provisions of section 200.

**203.** Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in the making over or forwarding of the labourer; and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray that expense. Expense of forwarding labourer to be paid by employer.

**204.** (1) On the expiry of any sentence of imprisonment passed on a labourer for any offence under this Act, the Magistrate shall, subject to the provisions of section 200, make the labourer over to any person appointed on the part of his employer to take charge of him; and no conviction under this Act or imprisonment thereon shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract. Conviction not to operate as a release.

(2) Where no person is present on the part of the employer to take charge of the labourer on the expiry of his sentence, the Magistrate shall forward the labourer to the principal place of business of his employer situate within the local limits of the Magistrate's jurisdiction.

(3) Any expenditure incurred under sub-section (2) may be recovered from the employer of the labourer concerned.

**205.** (1) Where a labourer is sentenced to imprisonment for any offence under this Act other than an offence under section 193 or section 198, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which the labourer is so sentenced. Endorsement on contract of imprisonment for offence against Act.

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(3) In a case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200, or if more than one year has elapsed from the expiry of the original term of the labour-contract or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198 shall be deducted from the term of service to which

he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 194.

Endorsement on contract of period of any other imprisonment.

**206.** Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or a person acting on behalf of the employer so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if that period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of that period as is equal to the unexpired term.

Periods endorsed to be added to term of contract.

**207.** The periods endorsed under section 205 or section 206 shall be added to the term for which the labourer contracted to serve; and the labourer shall not be deemed to have performed his labour-contract until he has served for the term specified therein in addition to the periods so endorsed.

Other person enticing away, harbouring or employing labourer under labour-contract.

**208. (1)** Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice the labourer to leave his employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left his employer, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(2) The convicting Magistrate may, in his discretion, award to the employer with whom the labourer has contracted the whole or any part of any fine levied under sub-section (1).

Failure to forward contract under section 118 or to cause labourer to appear under section 120.

**209.** Whoever, being bound under section 118, sub-section (2), to forward any labour-contract to the Inspector, or under section 120 to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward the labour-contract to the Inspector at or within the time specified, or to cause the labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to send labourer before Magistrate as provided by section 146.

**210.** Whoever, being bound by section 146 to send any labourer before, or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send the labourer or to give the notice, shall be punishable with fine which may extend to two hundred rupees.

Employer refusing to endorse labour-contract, etc.

**211.** Whoever, being an employer,—

- (a) refuses or wilfully neglects to endorse the labourer's copy of his labour-contract as required by section 155, or
- (b) detains a labourer after the determination of his labour-contract, or

(c) fails to give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof,

shall be punishable with fine which may extend to two hundred rupees.

**212.** Whoever, being an employer or a person acting for an employer, refuses or neglects to comply with the request of a labourer made under section 156, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.  
Abetment.

XLV of  
1860.

**213.** Whoever abets, within the meaning of the Indian Penal Code,<sup>1</sup> any offence against this Act or any rule hereunder, shall be punishable with the punishment provided for the offence.

**214.** Whoever commits any offence against this Act or any rule hereunder shall be triable for the offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force.

Place of trial for offences.

## CHAPTER X.

### MISCELLANEOUS.

**215.** Every sum recoverable under this Act from any person may be recovered, on application to a Magistrate having jurisdiction where the person is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to that person.

Recovery of sums due under Act.

**216.** All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom the labour-contract relates has been engaged to labour; or, if he has engaged to labour upon any one of several estates managed by the same employer, shall be a charge upon that estate upon which he for the time being actually labours.

Wages due under labour-contract a charge upon estate.

**217. (1)** Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of the labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound thereby, and shall have the same rights and remedies under it as such person would have had thereunder, if the estate had not been transferred or had not devolved.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.

**(2)** No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect

<sup>1</sup> General Acts, Vol. I.



of any breach of the labour-contract of the labourer which occurs after he has ceased to be owner.

Application  
of proceeds  
of fines, fees  
and rates.

**218.** The proceeds of any fines, fees and rates under this Act which may be credited to Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances, on meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder, and not otherwise.

Duty of  
Assistant  
Inspector.

**219.** Every Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

Powers of  
officers under  
this Act to  
be exercisable  
from time  
to time.

**220.** All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires.

Power to  
exempt  
labour-  
district from  
Act.

**221.** The Chief Commissioner of Assam may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that any labour-district or local area therein shall, on and with effect from a day to be fixed in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from the day so fixed such labour-district or local area as aforesaid shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Notifications  
not to affect  
prior acts,  
etc.

**222.** The publication of any notification under this Act shall not affect any act done, offence committed or proceedings commenced before such publication.

Repeal.

**223.** The enactments mentioned in the Second Schedule are hereby repealed to the extent specified in the fourth column thereof.

## THE FIRST SCHEDULE.

### FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

(See section 5.)

This contract, made under the Assam Labour and Emigration Act, 1901,

<sup>1</sup> This section was substituted for the original section 218 by Act XI of 1908, s. 3, *infra*.

between *A B* (hereinafter called the labourer) of the one part and \*[*C D* (representative, local agent or garden-sardar) on behalf of] *E F* (hereinafter called the employer) on the other part, witnesseth that the said \*[representative or local agent or garden-sardar on behalf of the said] employer doth hereby promise the said labourer that if he, the said labourer, do remain and labour† on the  $\frac{x \text{ estate}}{y \text{ estates}}$ ‡ of his said employer in the labour-district of \_\_\_\_\_ for the term of \_\_\_\_\_ years from the date of the execution of this contract, he, the said employer, will, from the date on which the said labourer commences to labour on the said  $\frac{x \text{ estate}}{y \text{ estates}}$  pay or cause to be paid to the said labourer monthly wages at the rate of \$Rs.

for a completed daily task regulated in accordance with the provisions of the said Act||, and, when such task as aforesaid is not completed, monthly wage calculated at the same rate in proportion to the amount of work actually done, and that during the said period he, the said employer, will supply to the said labourer rice at a price of Rs. \_\_\_\_\_ per maund and will faithfully comply with all rules regarding house-accommodation, medical treatment and the supply of food-grains or rations to the said labourer which the Local Government may prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the said employer. In witness whereof the said parties to these presents have hereunto set their hands at this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

.....

*Signature of Labourer and of Employer (or  
of his Representative, Local Agent or  
Garden-sardar).*

.....

\* Parts in square brackets to be omitted if the contract is made without the intervention of a representative, local agent or garden-sardar.

† State nature of labour, if the labourer is to be required to work under the ground.

‡ As the case may be.

§ State rates for various periods of contract.

|| [During the first six months of the contract the employer is to pay a full wage for half the daily task, unless an Inspector certifies that the labourer is able to perform a full task.]

*Form of Description of Labourer.*

NAME.	Father's name.	Age.	Sex.	Caste.	RESIDING			Descriptive marks.
					District.	Thana.	Village.	

[Endorsement to be filled up by officer before whom the contract is executed.]

I hereby certify that, before the said A B signed this contract, I personally explained it to him.

Dated at

This       day of

{ Signed \_\_\_\_\_  
Superintendent or Registering  
officer or Inspector or Magistrate.

[Endorsements on labourer's copy of contract to be filled up when the contract is determined or cancelled.]

I hereby certify that the foregoing contract has been determined by effluxion of time.

Dated at

This       day of

{ \_\_\_\_\_  
Signature of Employer or Inspector.

I hereby certify that the foregoing contract has been cancelled under the provisions of section       of Act VI of 1901.

Dated at

This       day of

{ \_\_\_\_\_  
Signature of Inspector or Magistrate.

**1901: Act VI.]** *Assam Labour and Emigration.*

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**1907: Act IV.]** *Rep. and Amending (Rates and Cesses).*

## THE SECOND SCHEDULE.

[ENACTMENTS REPEALED.]

(See section 223.)

Year.	No.	Short title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1882	I	The Assam Labour and Emigration Act, 1882.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much of section 2 and the first Schedule as relates to Act I of 1882.
1893	VII	The Inland Emigration Act, 1893.	The whole.
1897	V	The Repealing and Amending Act, 1897.	So much of section 2 and of the first and second Schedules as relates to Act I of 1882 and Bengal Act I of 1889.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>			
1889	I	The Inland Emigrants' Health Act, 1889.	The whole.

### ACT No. IV OF 1907.<sup>1</sup>

[THE REPEALING AND AMENDING (RATES AND CESSES) ACT, 1907.]

[20th March, 1907.]

An Act to repeal and amend certain Enactments relating to abolished rates and cesses.

WHEREAS certain rates and cesses leviable in the territories specified in the Schedule have been abolished, and it is therefore expedient to repeal or amend the enactments specified in the said Schedule : It is hereby enacted as follows :—

1. This Act may be called the Repealing and Amending (Rates and Cesses) Act, 1907.

2. The enactments specified in the Schedule shall be repealed or modified to the extent and in the manner mentioned in the third column thereof.

Enactments  
in Schedule  
repealed or  
modified.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India 1906, Part V, p. 51, and for Proceedings in Council, see *ibid.*, 1906, Pt. VI, p. 128, and *ibid.*, 1907, Pt. VI, p. 31.

## THE SCHEDULE.

Number, year and short title.	Sections.	Extent of repeal or modification.
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## A.—The Presidency of Madras.

Madras Act IV of 1893 (The Madras Village Cess Act, 1893).	..	The whole Act to be repealed.
Madras Act III of 1895 (The Madras Hereditary Village-officer Act, 1895).	3	For clause (1) the following to be substituted :— “(1) hereditary village offices existing in ryotwari villages or inam villages which for the purpose of village administration are grouped with ryotwari villages and belonging to the following six classes, by whatever designation, they may be locally known, namely :— (i) village-munsifs, (ii) potels, monigars and peddakapus, (iii) karnams, (iv) nirgantis, (v) vettis, tolis and fandalgars, (vi) talayaris. The Local Government shall have power to decide what officers come under any of the above classes.”
	6	In sub-section (1), for the words “In any local area in which the Madras Village-cess Act, 1893, is in force” the words “In any local area in which this Act is in force” to be substituted; and for the words “to which the said Act applies” the words “of the classes defined in section 3, clause (1), of this Act” to be substituted. In sub-section (2) for the words “in any village in which the Madras Village-cess Act, 1893, is in force” the words “in any ryotwari village or in any inam village which for the purpose of village administration is grouped with a ryotwari village,” to be substituted.
	20	In clause (ix) the words “the Madras Village-cess Act, 1893,” to be omitted.

\*

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\*

## E.—The Chief Commissionership of the Central Provinces.

* * * * *		* * * * *
* * * * *		* * * * *
* Act XVIII of 1881 (The Central Provinces Land-revenue Act, 1881)	77	In clause (a) the word “patwari” to be omitted.
	138	In clause (b) the word “patwaris” to be omitted.
	141	In clause (a) the words “village-patwari and” to be omitted.

\* Parts B, C and D relating to the Presidency of Bombay, the Lieutenant-Governorship of Bengal and the Lieutenant-Governorship of the Punjab and the Chief Commissionership of the North-West Frontier Province are omitted.

\* Act X of 1878 (The Central Provinces Additional Rates Act, 1878) and Act XVII of 1878 (The Northern India Ferries Act, 1878) do not apply in Madras and have been omitted.

\* Act XVIII of 1881 is in force in the Taluqas of Nugur, Albaka and Cherla—see Regulation I of 1909. s. 3, printed *infra*.

- 1907: Act IV.] *Rep. and Amending (Rates and Cesses).* 327  
 1908: Act XI.] *Labour and Emigration (Amendment).*  
 1908: Act XIII.] *Financial Commissioner (Central Provinces).*

THE SCHEDULE—*concl'd.*

Number, year and short title.	Sections.	Extent of repeal or modification.
Act XVIII of 1881 (The Central Provinces Land Revenue Act, 1881)— <i>concl'd.</i>	143A	In clause (c) the words "patwari and " to be omitted; and for the words "they are " the words "he is " to be substituted.
	146A	The whole section to be repealed.
1	*	*

ACT No. XI of 1908.<sup>3</sup>

[THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT, 1908.]

[11th September, 1908.]

An Act to amend the Assam Labour and Emigration Act, 1901.

WHEREAS it is expedient to amend the Assam Labour and Emigration

VI of 1901. Act, 1901; It is hereby enacted as follows:—

1. This Act may be called the Assam Labour and Emigration (Amend- Short title.  
ment) Act, 1908. •

VI of 1901. 2. For section 91 of the Assam Labour and Emigration Act, 1901, the Substitution  
following shall be substituted, namely: of new  
section for  
section 91,  
Act VI, 1901.

[*Vide supra*, p. 289.]

3. For section 218 of the said Act the following shall be substituted, Substitution  
namely:— of new  
section for  
section 218,  
Act VI of  
1901.

[*Vide supra*, p. 322.]

ACT No. XIII of 1908.<sup>3</sup>

[THE CENTRAL PROVINCES FINANCIAL COMMISSIONER'S ACT, 1908.]

[30th October, 1908.]

An Act to provide for the appointment of a Financial Commissioner for the Central Provinces and further to amend the Central Provinces Land-revenue Act, 1881.

WHEREAS it is expedient to appoint a Financial Commissioner for the

<sup>1</sup> Parts F and G relating to the Chief Commissionerships of Coorg and Ajmer-Merwara are omitted.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1908, Part V, p. 283, and for Proceedings in Council see *ibid.* 1908, Part VI, pp. 142, 150.

<sup>3</sup> This Act amends Act XVIII of 1881 which is in force in the Taluqas of Nugur, Albaka and Cherla, see note to s. 1 of that Act *ante*.

For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 352 and for Proceedings in Council, see *ibid.* Pt. VI, pp. 150 and 154.

Central Provinces and further to amend the Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Central Provinces Financial Commissioner's Act, 1908; and

(2) It shall come into force on such date as the Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, direct.

Appointment  
of Financial  
Commis-  
sioner.

2. (1) There shall be a Financial Commissioner for the Central Provinces

(2) The Chief Commissioner, <sup>1</sup>\* \* \* \* \* shall appoint, and may suspend or remove, the Financial Commissioner.

Assignment  
of powers  
to Financial  
Commis-  
sioner.

3. The Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, assign to the Financial Commissioner, subject to such conditions and restrictions, if any, as the Chief Commissioner with the like sanction may prescribe, all or any powers or functions assigned to the Local Government or to the Chief Commissioner or to the Chief Revenue-authority or the Chief Controlling Revenue-authority by any enactment for the time being in force.

Substitution  
of new  
sections  
for sections  
5 and 6,  
Act XVIII,  
1881.

4. For sections 5 and 6 of the Central Provinces Land-revenue Act, 1881, <sup>XVIII</sup> of 1881, the following shall be substituted, namely:—

[*Vide supra*, p. 131.]

Amendment  
of sections  
17 and 25,  
Act XVIII,  
1881.

5. In sections 17 and 25 of the said Act, after the words "Chief Commissioner," wherever they occur, the words "or the Financial Commissioner" shall be added.

Amendment  
of sections  
22 and 23,  
Act XVIII,  
1881.

6. In sections 22, clause (c), and 23, clause (c), of the said Act, for the words "Chief Commissioner" the words "Financial Commissioner" shall be substituted.

<sup>1</sup> The words "with the previous sanction of the Governor General in Council" were repealed by Act IV of 1914.

### PART III.

## REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT. CAP. 3), IN FORCE IN MADRAS.

### REGULATION No. I OF 1909.

[THE NUGUR, ALBAKA AND CHERLA LAWS AND CESSES REGULATION, 1909.]

[Received the assent of the Governor General on the 1st July 1909 ; and published in the Gazette of India Extraordinary and in the Fort St. George Gazette Extraordinary on the 1st July, 1909.]

A Regulation to declare the law in force in the Taluqas of Nugur, Albaka and Cherla and to authorize the levy of certain cesses therein and in the Bhadráchalam Taluq.

WHEREAS the taluqas of Nugur, Albaka and Cherla have, in pursuance of Proclamation No. 545, dated the 15th April 1909, issued by the Governor General in Council under section 1 of the Government of India Act, 1865, with effect from the first day of July, 1909, ceased to be subject to the Chief Commissionership of the Central Provinces and become subject to the Government of Madras ;

And whereas it is expedient that the law in force in the territory comprised in the said taluqas should, as far as possible, be the same as the law in force in the taluq of Bhadráchalam in the Godávári District of the Madras Presidency ;

And whereas it is also expedient to provide for the cost of maintaining roads and schools in the said taluqas and in the said taluq of Bhadráchalam :

It is hereby enacted as follows :

1. This Regulation may be called the Nugur, Albaka and Cherla Laws Short title, and Cesses Regulation, 1909.

2. (1) Save as provided in sub-section (2), all enactments and all notices, orders, schemes, rules, forms, and bye-laws issued, made or prescribed under enactments which immediately before the commencement of this Regulation were in force in the taluq of Bhadráchalam in the Godávári District of the Madras Presidency and not in force in the taluqas of Nugur, Albaka and Cherla (hereinafter referred to as the said taluqas), shall come into force in the said taluqas on the commencement of this Regulation.

<sup>1</sup> Collection of Statutes relating to India, Vol. I.



(2) Nothing in sub-section (1) shall be deemed to affect the following Acts of the Madras Council, namely:—

- (a) the Madras Revenue Recovery Act, 1864;
- (b) the Madras Hereditary Village Offices Act, 1895; and
- (c) the Madras Estates Land Act, 1908.

Mad. Act II  
of 1864.  
Mad. Act III  
of 1895.  
Mad. Act I of  
1908.

Repeal of  
laws.

3. (1) Save as provided in sub-section (2), all enactments which immediately before the commencement of this Regulation were in force in the said taluqas and not in force in the said taluq of Bhadrachalam shall be deemed to be repealed on and from the commencement of this Regulation in the said taluqas.

(2) Nothing in sub-section (1) shall be deemed to affect the following enactments, namely:—

- (a) the Central Provinces Land-revenue Act, 1881;
- (b) the Central Provinces Local Self-government Act, 1883, section 41, sub-section (1);
- (c) the Agriculturists' Loans Act, 1884,<sup>1</sup> sections 1, 4, 5 and 6; and
- (d) the Central Provinces Tenancy Act, 1898:

XVIII of  
1881.  
I of 1883.

XII of 1884.

XI of 1898.

Provided that the Central Provinces Land-revenue Act, 1881, and the Central Provinces Tenancy Act, 1898, shall henceforth be construed in the said taluqas subject to the following modifications, namely:—

- (a) the powers, duties and functions assigned to the Chief Commissioner of the Central Provinces by either of the said Acts or the rules made thereunder shall vest in the Governor of Fort St. George in Council, and, notwithstanding any provision therein subjecting such exercise, discharge or execution to the control, sanction or confirmation of the Governor General in Council, all such powers, duties and functions may be exercised, discharged and executed by the said Governor in Council as he may think fit, or may be delegated by him to any subordinate officer, subject to such limitations as he may think fit.
- (b) appeals shall lie from the decrees or orders passed by any Court or officer under the provisions of the said Acts to such Courts or authorities and subject to such conditions as the Governor of Fort St. George in Council may by rules prescribe.

4. (1) The Governor of Fort St. George in Council may, by notification in the Fort St. George Gazette,—

- (a) direct the levy of cesses on occupied lands in the said taluqas and in the said taluq of Bhadrachalam which shall constitute a fund or funds for the maintenance therein of roads and schools;
- (b) prescribe by whom, at what rates, in what instalments and at what times such cesses shall be payable and make rules for their assess-

Levy of  
certain  
cesses.

<sup>1</sup> General Acts, Vol. III.

1909: Reg. I.]	<i>Nugur, Albaka and Cherla Laws and Cesses.</i>	331
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ment and collection, and for the administration of the fund or funds so formed; and

(c) exempt any land from liability to pay the whole or any part of either of such cesses.

(2) Any cess levied under this section shall be recoverable as if it were an arrear of land-revenue:

Provided that the cesses levied under this section shall not in the aggregate exceed the tax which would be leviable on the same land under the Mad. Act V Madras Local Boards Act, 1884, if that Act were in force:

Mad. Act V  
of 1884.

Provided also that no cess shall be levied under this section on any land for any period for which any cess is levied on the same land for the same purpose under the provision of any settlement-record or any tax is levied on the same land under the Madras Local Boards Act, 1884.

5. All proceedings pending at the commencement of this Regulation before any authority in the said taluqas shall be disposed of by such authority as the Governor of Fort St. George in Council may direct, and, save as aforesaid, shall be carried on as if this Regulation had not been passed. Pending proceedings.

## REGULATION No. 1 OF 1912.

[THE LACCADIVE ISLANDS AND MINICOY REGULATION, 1912.]

[Received the assent of the Governor General on the 22nd January 1912; published in the Gazette of India on the 3rd February 1912; and in the Fort Saint George Gazette Extraordinary on the 1st idem.]

A Regulation to declare the Law applicable to the Laccadive Islands and Minicoy.

WHEREAS it is expedient to declare the law applicable to the Laccadive Islands and Minicoy; It is hereby enacted as follows:—

### CHAPTER I.

#### PRELIMINARY.

1. (1) This Regulation may be called the Laccadive Islands and Minicoy Regulation, 1912; and Short title  
and extent.

(2) It extends to the Laccadive Islands and Minicoy.

2. In this Regulation, unless there is anything repugnant in the subject or context,— Definitions.

(i) “the islands” mean the Laccadive Islands and Minicoy;

(ii) “the Inspecting officer” means any officer directed by the Local Government or Collector to inspect the islands or any of them; and

- (iii) words and expressions used herein and defined in the Indian Penal Code<sup>1</sup> have the same meaning respectively attributed to them in that Code.

## CHAPTER II.

### LAW APPLICABLE.

Law applicable.

3. Notwithstanding anything in any enactment now in force, this Regulation, the <sup>II of 1819.</sup>Madras State Prisoners Regulation, 1819, the <sup>III of 1858.</sup>State Prisoners Act, 1858, and the <sup>XIV of 1874.</sup>Scheduled Districts Act, 1874, shall be the only enactments in force in the islands.

## CHAPTER III.

### CRIMINAL JUSTICE.

Offences triable by inspecting officer or Collector.

4. (1) Whoever commits any of the following offences shall be liable to the punishment mentioned below in respect of such offence :—

Rioting . . . . .	Imprisonment which may extend to two years, or fine, or both.
Giving false evidence . . . . .	Imprisonment which may extend to seven years, and fine.
Murder . . . . .	Death or transportation for life.
Culpable homicide not amounting to murder.	Transportation for life or imprisonment which may extend to ten years.
Causing death by rash or negligent act.	Imprisonment which may extend to two years, or fine.
Grievous hurt . . . . .	Imprisonment which may extend to seven years, and fine.
Wrongful confinement . . . . .	Imprisonment which may extend to one year, or fine.
Kidnapping . . . . .	Imprisonment which may extend to seven years, and fine.
Rape . . . . .	Transportation for life or imprisonment which may extend to ten years, and fine.
Extortion . . . . .	Imprisonment which may extend to three years, or fine, or both.
Robbery . . . . .	Rigorous imprisonment which may extend to ten years, and fine.
Dacoity . . . . .	Transportation for life, or rigorous imprisonment which may extend to ten years, and fine.
Criminal misappropriation . . . . .	Imprisonment which may extend to two years, or fine, or both.
Criminal breach of trust . . . . .	Imprisonment which may extend to three years, or fine, or both.

<sup>1</sup> General Acts, Vol. I.

<sup>2</sup> *Supra*.

<sup>3</sup> General Acts, Vol. I.

<sup>4</sup> General Acts, Vol. II.

Dishonestly receiving stolen property	Imprisonment which may extend to three years, or fine, or both.
Cheating	Imprisonment which may extend to one year, or fine, or both.
Mischief by fire	Imprisonment which may extend to seven years, and fine.
Forgery	Imprisonment which may extend to two years, or fine.

(2) When any offence specified in sub-section (1) has been committed, the local amin shall hold an investigation, and, if a *prima facie* case is made out against any person, such person shall be charged before and tried by the Inspecting officer or the Collector or any of the Collector's assistants empowered by him by general or special order in this behalf.

(3) The Inspecting officer or the Collector or any assistant of the Collector empowered under sub-section (2), when trying a case in accordance with sub-section (2), shall, when the trial is held in the islands, sit with two or more island assessors.

#### 5. Whoever—

- (a) commits any of the following offences, namely :—  
theft, criminal force, assault, hurt, criminal trespass,
- (b) uses abusive language to another,
- (c) obstructs any person in seizing stray cattle,
- (d) without reasonable cause fails to attend the kachahri when ordered to do so,
- (e) causes mischief to property otherwise than by fire,
- (f) makes any imputation concerning any person knowing that such imputation is liable to harm the reputation of the person,
- (g) being convicted or charged with an offence and being in lawful custody escapes from such custody,

Minor offences and punishment.

on conviction by the amin shall be punishable with imprisonment for a term which may extend to fifteen days, or with fine which may extend to fifteen rupees, or with both.

6. Subject to the control of the Governor General in Council, the Governor in Council may, by notification in the Fort St. George Gazette, add to the list of offences specified in section 4, sub-section (1), and section 5, and prescribe the punishments for the offences so added.

Addition to list of offences.

7. Whoever fails to give information of a birth or death in his house shall be punishable with fine which may extend to five rupees.

Failure to give information of birth or death. Failure to obey reasonable order of amin.

8. (1) Whoever, when ordered to do so by the amin,—

- (a) fails to assist in launching or drawing up a boat,
- (b) fails to attend when called upon to assist in protecting cocoanut plantations from the ravages of rats,

shall be punishable with fine which may extend to two rupees :

Provided that a fine imposed under clause (b) may be refunded if the offender within forty-eight hours makes reparation to the satisfaction of the amin and assessors.

(2) Whoever, in a case not provided for by sub-section (1), disobeys any reasonable order of an amin or other public servant, shall be punishable with imprisonment which may extend to fifteen days, or fine which may extend to fifteen rupees, or with both.

**Jurisdiction and constitution of the Court of the amin.**

9. (1) The local amin of each island shall have jurisdiction to try persons accused of offences specified in sections 5 to 8 in the island and may inflict on persons found guilty of any such offence the punishment prescribed therefor.

(2) The local amin in the exercise of such jurisdiction shall sit with four or more assessors called karnavars in the islands. Such assessors shall be specially appointed by the Collector or Inspecting officer for life, subject to good behaviour.

(3) Whenever an amin is of opinion that an accused person tried before him is guilty of an offence specified in section 5 or in section 8, sub-section (2), and ought to receive a more severe punishment than he is empowered to inflict, he shall submit his proceedings, and forward the accused, to the Inspecting officer or the Collector, and such officer may pass such order as he thinks fit: Provided that he shall not pass any sentence of imprisonment exceeding one year.

**Procedure of amin in criminal cases.**

10. (1) The amin may take cognizance of cases on complaint or on his own initiative.

(2) In every case the amin shall make a memorandum of the evidence of the prosecution witnesses, the plea of the accused, and the evidence of the defence witnesses.

(3) The evidence shall be taken in the presence of the accused, and the accused and the complainant shall be allowed to cross-examine the witnesses for the other side.

(4) The amin shall deliver a written judgment, recording therein the opinions of the assessors sitting with him and the reasons for his own decision.

**Withdrawal or transfer by Collector.**

11. (1) The Collector may withdraw to his own file any case pending before the Inspecting officer or an amin.

(2) The Collector may transfer any case pending before himself or before the Inspecting officer to any of his Divisional officers for trial.

(3) The Inspecting officer may withdraw to his own file any case pending before an amin.

**Appeals from decisions of amin.**

12. From any sentence or order passed by an amin an appeal shall lie either to the Collector or the Inspecting officer in cases in which the Collector or the Inspecting officer grants special leave to appeal.

**Appeals from decision of the Island**

13. Any person convicted by the Inspecting officer or by a Divisional officer may appeal (a) to the High Court if the sentence is one of death or of imprisonment for five years or upwards, and (b) to the Collector in other cases

if the sentence exceeds three months' imprisonment or one hundred rupees fine.

14. From any sentence or order passed by the Collector as a Court of original criminal jurisdiction an appeal shall lie to the High Court.

15. No second appeal shall lie in any case whatever.

16. Every appeal shall be stamped with an eight-anna stamp, and shall be accompanied by a copy on stamped copy paper of the judgment or order appealed against:

Provided that nothing in this section shall apply to an appeal by a prisoner.

17. Every appeal shall be filed within six months from the date of the judgment or order appealed against:

Provided that the months of June, July, August and September shall be excluded in reckoning such period.

18. No pleader shall be allowed in any Court except with the special permission of the Collector. Parties may, however, be represented by their island mukhtyars.

19. Every mukhtyar, appearing before a Court on the mainland on behalf of a party in the islands, must produce a stamped mukhtyarnama or power-of-attorney bearing a court-fee stamp of eight annas.

20. Any person convicted of a criminal offence and sentenced to a term of imprisonment exceeding two months by a Court on the islands, or to any term of imprisonment by a Court on the mainland, may be sent for imprisonment to the Cannanore Central Jail.

## CHAPTER IV.

### CIVIL JUSTICE.

21. All questions relating to any rights claimed or set up in the Civil Courts of the islands shall be determined in accordance with any custom not manifestly unjust or immoral governing the parties or property concerned, and, in the absence of any such custom, according to justice, equity and good conscience.

22. The local amin of each island sitting with four or more assessors shall be the Civil Court for the island, and shall have jurisdiction over all civil claims arising therein.

23. Every suit shall be commenced by presenting a plaint to the amin having jurisdiction over the suit.

24. The Collector or the Inspecting officer may transfer any civil suit to his own file and shall then proceed to try it sitting with two or more of the island assessors. The Collector may transfer any such suit from his own file to that of any of his Divisional officers, who shall proceed to try the case with two or more such assessors.

inspecting officer or Divisional officer.

Appeals from the Collector. No second appeals.

Provision as to stamps.

Limitation of appeal.

Representation of parties.

Powers-of-attorney.

Detention of convicts in common jail in certain cases.

Law to be administered in Civil Courts.

Constitution of Civil Courts.

Commencement of suit.

Transferred suits.

Reference to  
assessors.

**25.** (1) The Collector or the Inspecting officer may refer any case for disposal or report to two or more of the island assessors. When it is referred for disposal, the assessors shall report their decision to the Court referring the case.

(2) The parties may challenge any assessor, and on sufficient reason being given another assessor shall be selected in his place.

(3) The parties shall be allowed to attend the hearing of the suit in person or by a mukhtyar, and the evidence shall be taken in open Court.

(4) The officer trying the suit shall make a memorandum of the evidence of each witness as it is given, and shall, after the conclusion of the hearing, pronounce judgment in open Court either in the presence of the parties or after notice to them. The judgment shall be in writing and shall contain the points for determination and the decision thereon.

Appeals.

**26.** (1) An appeal shall lie from the decision of the amin to the Inspecting officer or to the Collector. The Collector may transfer any such appeal to the Inspecting officer or any other of his Divisional officers for disposal.

(2) No appeal shall ordinarily lie from a decision of the Inspecting officer in the exercise of his original jurisdiction, but an appeal may be admitted by the Collector if sufficient grounds are shown. From a decision of a Divisional officer in the exercise of his original jurisdiction an appeal shall lie to the Collector.

(3) Save as otherwise provided in section 31, an appeal shall lie to the High Court from any decision of the Collector in the exercise of his original jurisdiction.

Application  
of certain  
sections to  
civil cases.  
Execution  
of decrees.

**27.** The provisions of sections 15, 16, 17, 18 and 19 shall also apply to civil cases.

**28.** All decrees shall ordinarily be executed by the amin of the island where the suit was instituted. But the Collector or the Inspecting officer may execute his own decrees if convenient.

Resistance to  
execution.

**29.** If a judgment-debtor wilfully refuses to obey the decree of the Court, he shall be liable to punishment under section 8, sub-section (2), and where the amin is of opinion that such punishment is inadequate, the procedure prescribed in section 9, sub-section (3), shall be followed.

Attachment  
and sale.

**30.** Cases in which attachment and sale of property is found necessary shall be reserved for the Inspecting officer, who shall attach the property of the judgment-debtor and sell it in execution of the decree.

Service of  
process.

**31.** Decrees or processes issued by a mainland Court against an islander, or by one island Court against a person residing in another island, shall be forwarded to the Collector for execution; and he shall cause it to be executed unless for reasons to be recorded in writing he may consider execution inadvisable, in which case he may refuse to execute it. In the case of any such refusal an appeal shall lie to the Governor in Council.

**32.** Nothing in this Regulation shall be deemed to limit or otherwise affect the inherent power of a Civil Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the powers of the Court.

Saving of  
inherent  
power of  
Civil Court

## CHAPTER V.

### MISCELLANEOUS.

**33.** The Governor in Council may by order prohibit persons residing on the mainland from visiting or taking up their residence in the islands, and may require persons ordinarily residing on the mainland who have taken up their residence in the islands to leave the islands; and he may make such rules as he deems fit in pursuance of the above.

Power of  
Governor in  
Council to  
exclude  
inhabitants  
of mainland  
from islands



## PART IV.

### ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

MADRAS ACT No. IV OF 1862.<sup>1</sup>

[THE MADRAS ENFRANCHISED INÁMS ACT, 1862.]

[15th May, 1862 ; 12th June 1862.]

<sup>2</sup>An Act to declare what shall be proof of the enfranchisement of ináms.

WHEREAS \* \* \* \* <sup>3</sup>under the inám rules sanc- Preamble.  
tioned by Government, under date the 9th August, 1859, the reversionary rights of Government are surrendered to the inamdárs, in consideration of an equivalent annual quit-rent, and the inám lands are thus enfranchised, and placed in the same position as other descriptions of landed property, in regard to their future succession and transmission ; It is hereby enacted as follows :—

[Enactments not to apply to enfranchised ináms.] Rep., Act XI of 1901.

2. The title-deed issued by the Inám Commissioner, or an authenticated Evidence of  
extract from the register of the Commissioner or Collector, shall be deemed enfranchise-  
ment.  
sufficient proof of the enfranchisement of land previously held on inám  
tenure.

### MADRAS PIER ACT, 1863.

#### CONTENTS.

#### SECTIONS.

1. Tolls to be levied on persons, etc., using Madras pier.
2. Notification of tolls.
3. Appointment of toll-keeper and his establishment.
4. Illegal collection of tolls.

<sup>1</sup> Short title, "The Madras Enfranchised Ináms Act, 1862" was given by the Repealing and Amending Act, 1901 (XI of 1901).

Nothing in this Act is to be deemed to confer on any inámholder any right to land which he would not otherwise possess. See s. 1 of Mad. Act VIII of 1869, *infra*.

This Act has been declared in force in the Scheduled Districts in Ganjam—see Fort St. George Gazette, 1899, Pt. I, p. 888, and Gazette of India, 1899, Pt. I, p. 720.

<sup>2</sup> This title was substituted for the original title by the Repealing and Amending Act, 1901 (XI of 1901)—see the Second Schedule, Part III.

<sup>3</sup> The intervening portion of the Preamble was repealed by the Repealing and Amending Act, 1901 (XI of 1901).

## SECTIONS.

5. Penalty for non-payment of toll, etc.
6. Penalty for wilfully damaging pier.
7. Penalty for cutting adrift, etc., any boat, etc., made fast to pier.
8. Goods on pier may be seized till tolls are paid, and sold if payment is refused.
9. Vessels fouling pier.
10. Penalty for non-payment of fines, etc.
11. Power to lay rails across road between pier and custom-house.
12. Penalty for forcing way through gates.
13. Power to remove obstructions.
14. Power to pass bye-laws.  
Penalty for breach of bye-laws.
15. Cognizance of offences.
16. Interpretation-clause.
17. [*Repealed*].
18. Short title.

MADRAS ACT No. V OF 1863.<sup>1</sup>

[THE MADRAS PIER ACT, 1863.]

[15th May, 1863 ; 8th June, 1863.]

An Act to prevent damage to the Madras pier ; to regulate the traffic ; and to provide for the levying of tolls upon the same.

## Preamble.

WHEREAS it is expedient to make rules and regulations for the purpose of preserving order upon the Madras pier, and for preventing damage thereto, and to provide for the levying of tolls upon the same ; It is enacted as follows :—

Tolls to be levied on persons, etc., using Madras pier.

1. Tolls according to such rates as shall from time to time be settled or approved by the Governor of Madras in Council shall be levied upon all persons, carts, carriages, merchandise, baggage and other articles, and upon all cattle and other animals, landed at, or shipped from, or otherwise making use of, the said pier.

Notification of tolls.

2. The said rates of tolls, when so settled or approved as aforesaid, shall, one week at least before the same shall take effect, be published in the Govern-

<sup>1</sup> Mad. Act VII of 1871 amending this Act is to be read with, and taken as part of, this Act—see that Act *infra*.

The provisions of this Act were extended to the Calicut pier by notification dated 20th September, 1878—see Fort St. George Gazette, 24th September, 1878, p. 551 ; to the Tuticorin pier by notification No. 14, dated 27th July, 1885—see Fort St. George Gazette, 7th August, 1885, p. 527 ; to the Coconada Wharf by Notification No. 26, dated 18th February 1901, Fort St. George Gazette, 1901, Pt. I, p. 250 ; and to the Mangalore pier by Notification No. 107, dated 30th July, 1901, Fort St. George Gazette, 1901, Pt. I, p. 1455.

For notifications fixing the scale of tolls for various piers to which the Act now applies, see the Madras List of Local Rules and Orders, Ed. 1912, Vol. II, Pt. I, p. 1, and Fort St. George Gazette, 1901, Pt. I, p. 1455.

ment Gazette, and shall also be legibly painted in the English, Tamil and Telugu languages, on boards exhibited in a conspicuous place at the entrance of the said pier, and also at the pier head.

3. A toll-keeper shall be appointed with an establishment (all and every of whom shall wear a distinguishing badge), whose duty it shall be to take the lawful tolls, settled or approved and published as aforesaid, to pay the same into such treasury, and keep such accounts as Government may from time to time prescribe. Appointment of toll-keeper and his establishment.

4. Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll upon the said pier, and also every person who shall unlawfully and extortionately demand or take any other or higher toll than the lawful toll, or under colour of this Act seize or sell any property, knowing such seizure and sale to be unlawful or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act, shall be deemed to have committed the offence of cheating, and shall be liable to such punishment as is prescribed for that offence by the Indian Penal Code.<sup>1</sup> Illegal collection of tolls.

5. Any person who shall evade payment of the lawful toll, or who shall force his way into or upon the said pier without paying the same, or who being upon the said pier shall refuse to pay the same, or who shall force or attempt to force his way off, or from, or out of, the said pier without paying such lawful toll, or who shall assault or in any way obstruct any toll-keeper or any of his assistants in the execution of their duty under this Act, shall be punishable with imprisonment of either description for a term which may extend to three months, or with fine which may extend to rupees five hundred, or with both. Penalty for non-payment of toll, etc.

6. Any person who shall unlawfully and maliciously damage the said pier or any of its appurtenances, fixed or moveable, shall be punishable under section 426 or 427 of the Indian Penal Code,<sup>1</sup> according to the amount of loss or damage caused by such mischief; that is, with imprisonment of either description for a term which may extend to three months, if the damage caused be not above the amount of fifty rupees, or to two years, if the damage be of greater amount than fifty rupees, or with fine, or with both. Penalty for wilfully damaging pier.

7. Any person who shall unlawfully and maliciously cut, sever or unfasten, or who shall otherwise injure, any rope, chain or other fastening by which any boat, barge or raft shall be made fast to the said pier, or to any buoy near the same, or who shall cut or send adrift any buoy that shall be laid down near the said pier, shall be punishable under section 426 or 427 of the Indian Penal Code,<sup>1</sup> according to the amount of loss or damage caused by such mischief; that is, with imprisonment of either description for a term which may extend to three months, if the damage caused be not above the amount of fifty rupees, or to two years, if the damage be of greater amount than fifty rupees, or with fine, or with both. Penalty for cutting adrift, etc., any boat, etc., made fast to pier.

<sup>1</sup> General Acts, Vol. I.

Goods on pier may be seized till tolls are paid, and sold if payment is refused.

**8.** It shall be lawful for the said toll-keeper, or any of his assistants, to detain any merchandise, baggage or other articles landed at, or to be shipped from, the pier, until the lawful tolls are paid; and in the event of such payment being refused or withheld or delayed for the space of one week, if the owner or consignee of such goods be in Madras (or otherwise for the space of one calendar month), it shall be lawful for Government to sell or cause to be sold by public auction the said merchandise, baggage or other articles, and after paying all expenses attendant on such seizure, detention and sale, to hold the proceeds (minus double the dues by way of a fine) at the disposal of the owner or consignee of the goods.

Vessels fouling pier

**9.** If any ship or vessel shall foul the pier and thereby occasion damage thereto, the amount of such damage shall be ascertained forthwith, or as soon as conveniently may be, and, upon the amount of such damage being proved before a Magistrate to his satisfaction, it shall be lawful for such Magistrate to make an order upon the master or owners of such ship or vessel for the payment of such amount, and if the same be not paid within twenty-four hours after demand upon, or notice of such order to, the owners or agents, or to the master or other officer of such ship or vessel (or forthwith if the Magistrate shall so order), it shall be lawful for the Conservator of the Port of Madras to levy the amount thereof by distraining in manner hereinafter provided, or, if necessary, by seizure and sale of such vessel.

Penalty for non-payment of fines, etc.

**10.** If any vessel or the master or owners of any vessel shall become liable under the provisions of this Act to pay any sum of money either by way of fine or penalty, or for the purpose of making good any damage, and the same shall not be paid within twenty-four hours after demand or after notice of such liability (or forthwith if the Magistrate before whom the complaint for the recovery of such fine, penalty or amount of damage shall be made shall so order), then and in every such case it shall be lawful for the Conservator of the Port of Madras to distrain or cause to be distrained any goods or merchandise, to whomsoever the same may belong, on board such vessel, and any tackle, apparel or furniture belonging to such vessel, and to remove the same to some convenient place, leaving on board such vessel notice in writing of such distress, and of the cause thereof, and of the place of removal; and if such sum of money, together with the cost of such distress and removal, be not paid within three days after the seizure, exclusive of the day of seizure, the said Conservator may cause the goods, merchandise, tackle, apparel and furniture so seized to be sold, and out of the proceeds of such sale shall pay to Government the said sum which the said vessel or the owners thereof were liable to pay under the provisions of this Act, together with the reasonable costs of such seizure, detention and sale, rendering to the owner or agent or master or other person having the command of such vessel the overplus, if any, on demand.

Power to lay rails across road between

**11.** It shall be lawful for Government to lay rails or tramways across the Beach road between the pier and the custom-house, and to erect railings on

each side of such tramway, with gates to be closed for the protection of the public when vans are proceeding along such tramways. pier and custom-house.

**12.** Any person who shall force his way through any of such gates when so closed as aforesaid shall be deemed to have committed the offence of criminal trespass, and shall be punishable under section 447 of the Indian Penal Code,<sup>1</sup> namely, with imprisonment of either description for a term which may extend to three months, or with fine which may extend to rupees five hundred, or with both. Penalty for forcing way through gates.

XLV of 1860.

**13.** It shall be lawful for any Police-officer or constable or officer acting under the provisions of this Act, to remove summarily all obstructions in or near the approaches to the pier. Power to remove obstructions.

**14.** It shall be lawful for the Governor of Madras in Council to pass bye-laws<sup>2</sup> which shall be published in the Government Gazette for the enforcement of any of the following matters, and any person infringing the same shall, on conviction by a Magistrate, be liable to a penalty not exceeding twenty-five rupees, and in default of payment to imprisonment for a period not exceeding one calendar month :— Power to pass bye-laws. Penalty for breach of bye-laws.

1st, for regulating the approach of boats, barges and rafts to the pier, and for loading and unloading the same ;

2nd, for preventing damage to the pier by boats lying alongside ;

3rd, for regulating the admission of coolies to the pier ;

4th, for the prevention of accidents from fires and lights on the pier ;

5th, for regulating the traffic along the pier ;

6th, for fixing the hours at which the pier shall be open to the public, whether for goods or for passengers ;

7th, for all other purposes not inconsistent with the provisions of this Act.

**15.** All offences against the provisions of this Act shall be cognizable by any Magistrate of Police for the town of Madras. Cognizance of offences.

**16.** Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Interpretation-clause.

Words importing the masculine gender shall include females.

The word "toll-keeper" shall include the assistants of the toll-keeper.

**17.** [Commencement of Act.] *Rep. by Act XII of 1873.*

**18.** This Act may be cited for all purposes as the Madras Pier Act, 1863. Short-title.

<sup>1</sup> Printed, General Acts, Vol. I.

<sup>2</sup> For instances of such bye-laws for the piers at Calicut, Gopalpur, Madras and Tuticorin, see Madras List of Local Rules and Orders, Ed. 1912, Vol. II, Pt. I, p. 1. For bye-laws for the wharf at Coconada, see Fort St. George Gazette, 1901, Pt. I, p. 1253.

## THE MADRAS REVENUE RECOVERY ACT, 1864.

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MADRAS ACT No. II OF 1864.<sup>1</sup>

## [THE MADRAS REVENUE RECOVERY ACT, 1864.]

[20th June, 1864.]

An Act to consolidate the Laws for the Recovery of Arrears of Revenue in the Madras Presidency.

## Preamble.

WHEREAS it is advisable that the laws relating to the collection of the public revenue should be consolidated and simplified; It is hereby enacted as follows :—

Interpreta-  
tion clause.  
Landholder.

1. The term "landholder" as used in this Act, shall be taken to comprise the following persons :—

All persons holding under a Sanad-i-Milkiyat-i-istimrar, all other Zamindars, Shrotriyamdars, Jágirdars, Inamdars, and all persons farming the Land Reve-

<sup>1</sup> Short title, "The Madras Revenue Recovery Act, 1864" was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act has been declared, by notification under s. 3 of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Ranapa country in the Gódlávári District—see Fort St. George Gazette, 1879, p. 723, and Gazette of India, 1879, Pt. I, p. 630.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjáin and Vizagapatam—see Fort St. George Gazette, 1898, Pt. I, p. 666, and Gazette of India, 1898, Pt. I, p. 869.

It has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluqs of Bhadráchalani and Rakapilli in the Gódlávári District—see Fort St. George Gazette, 1879, Pt. I, p. 723, and Gazette of India, *ibid.*, p. 630.

This Act is not in force in the taluqs of Nugur, Albaka and Cherla, vide s. 2(2) of the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1803 (I of 1803), *supra*.



nue under Government. All holders of land under Ryotwar settlements, or in any way subject to the payment of revenue direct to Government.

Public revenue due on land shall, for the purposes of this Act, be taken to include cesses or other dues payable to Government on account of water supplied for irrigation. Public revenue.

2. The land, the buildings upon it, and its products, shall be regarded as the security of the public revenue. Security for revenue.

3. Every landholder shall pay to the Collector, or other officer empowered by him to receive it, the revenue due upon his land on or before the day on which it falls due, according to the kistbandi or other engagement, and where no particular day is fixed, then within the time when the payment falls due according to local usage: Provided that, except where property is held under a Sanad-i-Milkiyat-i-istimrar or other similar instrument, it shall be lawful for the Board of Revenue, by notification published in the District Gazette, to alter and fix, from time to time, the amount of the several kists or instalments, and the dates at which they shall respectively become payable. Landholder when and to whom to pay kist.  
  
Board of Revenue may alter amounts and dates of payment. Arrear of revenue.

4. When the whole or a portion of a kist shall not be so paid, the amount of the kist or of its unpaid portion shall be deemed to be an arrear of revenue.

5. Whenever revenue may be in arrear, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to proceed to recover the arrear, together with interest and costs of process, by the sale of the defaulter's moveable and immoveable property, or by execution against the person of the defaulter in manner hereinafter provided. Arrear of revenue how recovered.

6. If the defaulter hold under a Sanad-i-Milkiyat-i-istimrar or other similar instrument, the mode of recovering the arrear shall be in accordance with the terms of such Sanad. In the case of other defaulters, the Collector, or other officer empowered by the Collector in that behalf, may, at his discretion, proceed to realize the arrear by the sale of either the moveable or immoveable property of the defaulter, or of both. Terms of Sanad-i-Milkiyat-istimrar to be observed.

7. Arrears of revenue shall bear interest at the rate of 6 per cent per annum. Interest on arrears.

8. In the seizure and sale of moveable property for arrears of revenue, the following rules shall be observed:— Rules for seizure and sale of moveable property. Demand in writing.

*First.*—The Collector, or other officer empowered by the Collector in that behalf, shall furnish to the person employed to distrain the property of a defaulter, a demand in writing and signed with his name, specifying the name of the defaulter, the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person employed to distrain shall produce the writing which, if the arrear together with the batta due to him, under section 53, be not at once paid, shall be his authority for making the distress, and on the day on which the property may be distrained, shall deliver a copy of such writing to the defaulter, endorsing thereon a list or in-

Defaulter

to be served with a copy.

ventory of the property distrained, and the name of the place where it may be lodged or kept.

Writing to state that the distrained property will be sold. Service when defaulter is absent.

*Second.*—The writing shall further set forth that the distrained property will be immediately brought to public sale, unless the amount, with interest, batta, and all the expenses of the distress, be previously discharged.

*Third.*—When a defaulter may be absent, a copy of the writing, with the endorsement, shall be fixed or left at his usual place of residence, or on the premises where the property may have been distrained, before the expiration of the third day, calculating from the day of the distress.

Procedure when defaulter neglects to pay after notice.

9. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector or other officer empowered by the Collector in that behalf, the distrainer shall transmit an inventory of the property distrained to the nearest Public officer empowered to sell distrained property under Act VII of 1839,<sup>1</sup> in order that it may be publicly sold for the discharge of the arrear due, with interest, batta, and cost of distraint.

On tender of arrear and expenses prior to sale, distress withdrawn.

10. Where a defaulter may tender payment of the arrear demanded after his property may have been distrained, and prior to the day fixed for sale, together with payment of interest, batta, and all necessary expenses attending distress, the distrainer shall receive the amount immediately upon the same being tendered, and shall forthwith release the property.

Distrained crops how dealt with.

11. The distrainer attaching the crops or ungathered products of the land belonging to a defaulter, may cause them to be sold when fit for reaping or gathering, or, at his option, may cause them to be reaped or gathered in due season, and stored in proper places until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold. When crops or products belonging to a tenant shall have been sold, it shall be lawful for such tenant to deduct the value of the crops or products so sold from any rent which may be due by him, then or afterwards, to the defaulter, in respect of the land on which such crops or products have been grown. It shall also be lawful for a tenant whose crops are attached for an arrear of revenue to pay the arrear and deduct the amount in the aforesaid manner from any rent due by him, then or afterwards.

Tenant may pay arrears and terminate attachment.

Distrained cattle or goods not to be used.

12. The distrainer shall not work the bullocks or cattle, or make use of the goods or effects distrained; he shall provide the necessary food for the cattle or live-stock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Recovery of loss from neglect in respect of distrained property.

13. Where property distrained may be stolen, or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, or from its having been improperly worked or made use of, the amount

<sup>1</sup> Printed *supra*.

of such loss or damage shall be recoverable by summary process by the Collector from the officer whose neglect or act occasioned the loss or damage, and the amount when recovered shall be paid to the person damaged.

**14.** The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Distress to be proportionate to the arrear.

**15.** Distress shall be made after sunrise and before sunset, and not otherwise.

Time of distress.

**16.** Where a defaulter may make a fraudulent conveyance of property to prevent the distress for arrears, any Civil Court of competent jurisdiction, upon proof thereof, shall summarily cause the property to be delivered up to the distrainer. The defaulter will further be liable to the penalties prescribed by section 424 of the Indian Penal Code.<sup>1</sup>

Penalty for fraudulent conveyance of property to prevent distress.

XLV of 1860.

**17.** Where any person, not being a defaulter or responsible for a defaulter, may claim a right to the property distrained, and the distrainer may, notwithstanding, cause the same to be sold, such claimant, on proof of such right in any Civil Court of competent jurisdiction, and in the event of the distrainer being unable to prove the responsibility for the arrear of revenue, on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with interest, costs, and damages, according to the circumstances of the case. But claims to crops upon the ground, or to gathered products of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of revenue due from the ground upon which such crop or product may have been grown.

Claims to property distrained and sold.

Revenue to be the first charge.

**18.** Where it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the Court may summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed by the Indian Penal Code.<sup>1</sup>

Penalty for forcibly or clandestinely taking away distrained property.

XLV of 1860.

**19.** It shall be lawful for the distrainer to force open any stable, cow-house, granary, godown, out-house, or other building, and he may also enter any dwelling house the outer door of which may be open, and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling house appropriated for the zenana or residence of women, except as hereinafter provided.

What places distrainer may force open.

**20.** Where a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling house, the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such distrainer shall represent the same

Powers of distrainer to force open doors in the presence of a police-officer.

<sup>1</sup> Printed General Acts, Vol. I.

to the officer in charge of the nearest Police-station. On such representation, the officer in charge of the said station shall send a police-officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the zenana. The distrainer may also, in the presence of the police-officer, after due notice given for the removal of women within a zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who, according to the customs of the country, cannot appear in public), enter the zenana apartments for the purpose of distraining the defaulter's property deposited therein, but such property, if found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.

Punishment  
for unlawful  
entry.

**21.** Persons entering the apartments of women, or forcing open the outer door of dwelling houses, contrary to the provisions of this Act, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rupees 500, or to imprisonment of either description for any period not exceeding six months.

Proclamation  
of time of  
sale, and of  
property  
to be sold.

**22.** The public officer, empowered under Act VII of 1839<sup>1</sup> to sell distrained property, shall cause to be affixed to the outer door of the defaulter's house, or on the premises where the property may have been distrained, a list of the property to be sold, with a notice specifying the place where, and the day and hour at which the distrained property will be sold, and shall cause proclamation of the intended sale to be made by beat of drum in the village to which the lands on which the arrear has accrued may belong, and in such place or places as the Collector, or other officer empowered by the Collector in that behalf, may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

Sale how  
conducted.

**23.** At the appointed time, the property shall be put up in one or more lots, as the said officer may consider advisable, and shall be disposed of to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting expenses of process and interest, shall be paid to the defaulter.

Payment on  
purchase  
of distrained  
property.

**24.** The property shall be paid for in ready money at the time of the sale, or as soon after as the officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same in full. Where the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall be liable for any loss arising, as well as the expenses incurred on the re-sale. Where the property may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Re-sale in  
case of  
default.

Demand to  
be served  
prior to  
attachment  
of land.

**25.** Before a Collector, or other officer empowered by the Collector in that behalf, proceeds to attach the land of the defaulter, or buildings thereon,

<sup>1</sup> Printed *supra*.

he shall cause a written demand to be served upon the defaulter, specifying the amount due, the estate or land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be fixed with reference to the distance from the land on which the arrear is due to the place at which the money is to be paid. Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized agent, or by affixing a copy thereof on some conspicuous part of his last known residence, or on some conspicuous part of the land about to be attached. Mode of service.

26. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, or other officer empowered by the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner. Procedure when defaulter neglects to pay.

27. The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law. The attachment shall be notified by public proclamation on the land, and by publication of the notice in the District Gazette. Mode of attachment.

28. It shall be lawful for the Collector, when attaching the land of a defaulter, or at any time during such attachment, to assume the management of the property attached. In such case he shall appoint an agent with a proper establishment of officers to manage the property, and shall give the agent certificate of appointment with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the property: provided always, that where the property may be too inconsiderable to admit of its being charged with the salary of an agent, it shall be committed to the care of such Revenue-officer as the Collector may select, who shall be subject to all the provisions herein contained in reference to agents. Management of attached property.  
  
When Revenue-officer to take charge.

29. Notice of the assumption of management shall forthwith be served on the defaulter in the manner described in section 25, and shall be notified by public proclamation on the land, and by publication in the District Gazette. Notice of assumption of management.

30. It shall be the duty of the agent, during the continuance of management under section 28, to collect the rents and profits due, or accruing due upon the estate, according to the engagements subsisting between the defaulter and the parties holding under him, or according to established usage where no specific engagements exist. The agent shall keep accounts of all his receipts and disbursements, and submit the same, and pay over the balance, to the Collector, or other officer empowered by the Collector in that behalf, monthly, or whenever required, and the defaulter shall be at liberty to inspect the Duties of agent.

accounts at all reasonable times, and to take copies of the same at his own expense without fee.

Liability of agent to suit or prosecution.

**31.** It shall be lawful for the defaulter to proceed by prosecution or suit against the agent, in respect of any criminal or illegal act done by him to the injury of the defaulter or his estate, and all tenants, or other persons holding by subordinate title, shall have the same remedies against him as they would have had against the defaulter if the act were done by the defaulter.

Effect of existing agreements between landholder and tenants.

**32.** All engagements entered into between the landholder and his tenants, except such as are hereinafter mentioned, shall be binding upon the Collector, during attachment, but all such engagements made collusively with a view to defeat or delay the effect of the attachment, and all leases of land at a rate lower than the usual rates of assessment, and not made *bonâ fide* for the purpose of erecting factories or buildings, or of bringing waste land into cultivation, and all engagements made subsequently to attachment, shall be null and void against the Collector, if he shall so declare; subject, however, to the right of the parties to such agreement to bring a suit against the Collector in the ordinary tribunals to establish the same; and all charges or incumbrances upon such land shall be postponed to the payment of the public revenue.

Payments by tenants.

**33.** All payments on account of rent or profits actually due, made before public notice of assumption of management to or on behalf of any landholder by any person holding under him, shall be valid against the Collector, and all such payments made after public notice of such assumption, or made before they were actually due, shall be null and void against the Collector, who shall be entitled to recover, as arrears of rent, the full amount from the parties by whom it was paid, leaving them to sue the defaulter in the ordinary Courts of law.

Settlement on withdrawal of attachment.

**34.** All sums received from the property attached, after paying the expenses of attachment and management, shall be carried to the credit of the defaulter in discharge of the arrears due, and interest thereon at the rate of six per cent per annum, and as soon as all arrears, interest, costs of attachment, and expense of management shall have been liquidated, the attachment shall be withdrawn, and a full account rendered of all receipts and disbursements during its continuance.

Persons interested in land may release it from attachment.

**35.** It shall be lawful for any person claiming an interest in land which has been, or is about to be, attached, to obtain its release by paying the arrears, interest, and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then or afterwards due by him to the defaulter; and if paid by a *bonâ fide* mortgagee or other incumbrancer upon the estate,<sup>1</sup> [or by any person not being in possession thereof but *bonâ fide* claiming an interest therein adverse to the defaulter,] shall be a charge upon the land, but shall only take priority over other charges according to the date at which the

<sup>1</sup> These words in square brackets were substituted for the words "shall constitute a debt from the defaulter to him and" by s. 1 of Mad. Act I of 1897, printed *infra*.

payment was made. <sup>1</sup>[Such sums when paid by a *bond fide* mortgagee or other incumbrancer shall further constitute a debt from the defaulter.]

**36.** In the sale of immoveable property under this Act the following rules shall be observed :—

Procedure in  
sale of  
immoveable  
property.  
Public  
auction.

*First.*—The sale shall be by public auction to the highest bidder. The time and place of sale shall be fixed by the Collector of the District in which the property is situated, or other officer empowered by the Collector in that behalf. The time may be either previous to or after the expiration of the Fasli year.

*Second.*—Previous to the sale the Collector, or other officer empowered by the Collector in that behalf, shall issue a notice thereof in *English* and in the language of the District, specifying the name of the defaulter; the position and extent of land and of his buildings thereon; the amount of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current Fasli; and the time, place, and conditions of sale. This notice shall be fixed up one month at least before the sale in the Collector's office and in the Taluk cutcherry, in the nearest police station-house, and on some conspicuous part of the land.

Notification  
one month  
before sale.

*Third.*—A sum of money equal to fifteen per cent of the price of the land shall be deposited by the purchaser in the hands of the Collector, or other officer empowered by the Collector in that behalf, at the time of the purchase, and where the remainder of the purchase-money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.

Deposit by  
purchaser.

*Fourth.*—Where the purchaser may refuse or omit to deposit the said sum of money, or to complete the payment of the remaining purchase-money, the property shall be resold at the expense and hazard of such purchaser, and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the lands may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Re-sale in  
default of  
payment.

*Fifth.*—All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as agents, and, in the latter case, to deposit a written authority signed by their principals. If such requisition be not complied with, their bids may be rejected.

Agents to  
name princi-  
pals.

**37.** It shall be competent to the defaulter or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching or managing the estate, or in taking the steps necessary for sale, and thereupon the sale shall be stayed :

Tender of  
arrears up to  
sunset on day  
before sale.

<sup>1</sup> These words in square brackets were added to the section by s. 1 of Mad. Act. I of 1897.

Provided always that such tender must be made before sunset on the day previous to that appointed for the sale, and all sums <sup>1</sup>[paid under this or the next succeeding section] by any tenant, or *bond fide* mortgagee, or other incumbrancer <sup>2</sup>[or any person *bond fide* claiming an interest in the estate adverse to the defaulter] may be recovered in the manner provided in section 35.

Application to set aside sale of immoveable property on deposit.

**37-A.** (1) Any person owning or claiming an interest in immoveable property sold under this Act may, at any time within thirty days from the date of sale, deposit in the treasury of the taluk in which the immoveable property is situated—

- (a) a sum equal to five *per centum* of the purchase money,
- (b) a sum equal to the arrears of revenue for which the immoveable property was sold, together with interest thereon and the expenses of attachment, management and sale and other costs due in respect of such arrears,

and may apply to the Collector to set aside the sale.

(2) If such deposit and application are made within thirty days from the date of sale, the Collector shall pass an order setting aside the sale, and shall repay to the purchaser the purchase money so far as it has been deposited, together with the five *per centum* deposited by the applicant :

Provided that if more persons than one have made deposit and application under this section, the application of the first depositor to the officer authorised to set aside the sale shall be accepted.

(3) If a person applies under section 38 to set aside the sale of immoveable property, he shall not, unless he withdraws such application, be entitled to make an application under this section.

Application to set aside sale.

**38.** (1) At any time within thirty days from the date of the sale of immoveable property, application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it ; but, except as otherwise is hereinafter provided, no sale shall be set aside on the ground of any such irregularity or mistake unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

(2) If the application be allowed, the Collector shall set aside the sale and may direct a fresh one.

Order confirming or setting aside sale.

(3) On the expiration of thirty days from the date of the sale, <sup>5</sup>[if no application to have the sale set aside is made under section 37-A or under clause (1) of this section] or if such application has been made and rejected, the Collec-

<sup>1</sup> These words in square brackets were substituted for the words " so paid " by s. 2 of Mad. Act I of 1909.

<sup>2</sup> These words in square brackets were added by s. 2 of Mad. Act I of 1897.

<sup>3</sup> This section was inserted by section 3 of Mad. Act I of 1909.

<sup>4</sup> This section was substituted for the original section 38 by Mad. Act III of 1884 (s. 1), *infra*.

<sup>5</sup> These words in square brackets were substituted for the words " if no such application is made " by s. 4 of Mad. Act I of 1909.



tor shall make an order confirming the sale : provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

(4) Whenever the sale of any lands is not so confirmed or is set aside, the deposit or the purchase-money, as the case may be, shall be returned to the purchaser.

Refund of deposit or purchase-money when sale set aside. On confirmation of sale, purchaser's name to be registered.

(5) After the confirmation of any such sale, the Collector shall register the lands sold in the name of the person declared to be the purchaser and shall execute and grant a certificate of sale bearing his seal and signature to such purchaser.

Such certificate shall state the property sold and the name of the purchaser, and it shall be conclusive evidence of the fact of the purchase in all Courts and Tribunals, where it may be necessary to prove the same ; and no proof of the Collector's seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness.

Certificate of sale.

**39.** When lands may be purchased at public sale the Collector, or other officer empowered by the Collector in that behalf, shall publish in the villages, in which the land sold may be situated, in the cutcherry of the taluk, in the head cutcherry of the district, and in the District Gazette, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

Proclamation of sale.

**40.** Where, notwithstanding such publication, any lawful purchaser of land may be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by section 38, shall cause the proper process to be issued for the purpose of putting such purchaser in possession, in the same manner as if the purchased lands had been decreed to the purchaser by a decision of the Court.

Delivery of possession.

**41.** All contracts entered into by the defaulter with his tenants, and all payments to him by them shall be binding upon the purchaser to the same extent and under the same conditions as laid down in sections 32 and 33 of this Act.

Contracts and payments binding on purchaser.

**42.** All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, and if any balance shall remain after liquidating the arrears with interest, and the expenses of attachment and sale and other costs due in respect to such arrears, it shall be paid over to the defaulter, unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

Sale to be free of all incumbrances. Disposal of surplus.

**43.** Arrears of rent which on the day of sale may be due to the defaulter from his under-tenants shall, in the event of the sale, be recoverable by him after the sale by any process, except distraint, which might have been used by him for that purpose before the said sale.

Recovery of arrears due to defaulter on day of sale.

Sale of land  
for arrears.

**44.** It shall be lawful for the Collector, or other Officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrear of revenue: provided always that, so far as may be practicable, no larger section of the land shall be sold than may be sufficient to discharge the arrears with interest, and expenses of attachment, management, and sale.

Apportion-  
ment of  
assessment  
on sub-  
division.

**45.** Where only a part of a landed estate held under a Sanad-i-Milkiyat-i-istimrar, or otherwise subject to the payment of a lump assessment, may be sold, the assessment upon such part shall be apportioned by the Collector previous to sale in manner following:—

The amount of revenue to be assessed on each division shall bear the same proportion to the actual value of such division as the total amount of the revenue of the whole estate may bear to the total actual value of the entire estate previous to such division.

Production  
of accounts.

To this end the Collector shall have power to demand from landholders and from the karnams of villages accounts of the produce and of the charges attending the management of lands to be divided; such landholders and karnams shall furnish the said accounts when required for a period of not less than three years next preceding the then current year; where the landholder may refuse or unreasonably delay to comply with such demand so as to prevent the assessment being fixed on such divided portions of land, the Collector shall proceed to sell the entire estate.

Effect of  
non-produc-  
tion.

**46.** [Confirmation of apportionment by Board. Rep. by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.]

Sale may be  
postponed  
on tender of  
security.

**47.** When a defaulter tenders security, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint; in the event of default being made in the performance of such conditions, the Collector or such officer may sell the property and proceed against the defaulter or against his security, or both.

Powers of  
arrest in case  
of wilful or  
fraudulent  
non-payment  
of arrears.

**48.** When arrears of revenue, with interest and other charges as aforesaid, cannot be liquidated by the sale of the property of the defaulter, or of his surety, and the Collector shall have reason to believe that the defaulter or his surety is wilfully withholding payment of the arrears, or has been guilty of fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest and imprisonment of the defaulter, or his surety, not being a female, as hereinafter mentioned; but no person shall be imprisoned on account of an arrear of revenue for a longer period than two years, or for a longer period than six months, if the arrear does not exceed Rupees 500, or for a longer period than three months, if the arrear does not exceed Rupees 50: provided that such imprisonment shall not extinguish the debt due to Government by the defaulter, or his surety.

Period of  
imprison-  
ment.

Debt not  
extinguished.

Procedure in  
case of  
arrest.

**49.** The Collector shall issue his warrant for the arrest of the defaulter, or his surety, or both, not being females, which shall specify his or their name,

the amount of revenue due, and the date on which it became payable, and the warrant shall be signed and sealed by the authority by whom it was issued. The officer charged with the execution of the warrant shall thereupon arrest the defaulter, or his surety, or both, and convey him or them to the district gaol, and deliver the warrant to the gaoler, which shall be a sufficient authority to him to receive the prisoner or prisoners. A copy of such warrant shall be retained by the gaoler, who shall forthwith despatch the original to the officer in charge of the gaol.

**50.** All the remedies prescribed by this Act in case of revenue defaulters may be employed against their sureties, and it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to enforce the same simultaneously with, or either previously or subsequently to, their enforcement against the principal; so, nevertheless, that no more than the total sum in arrears, and interest with costs and charges, shall be realized from both.

Mode of enforcing payment by sureties.

**51.** When land-revenue is payable in kind, it shall be lawful for the Collector or other officer empowered by the Collector in that behalf, to prevent the removal of the crop from the land until a division has been made, and the portion which belongs to Government has been set apart, unless the landholder furnishes such security as the Collector may deem satisfactory.

Removal of crops may be prevented where revenue is payable in kind.

**52.** All arrears of revenue other than land-revenue due to Government, all advances made by Government for cultivation or other purposes connected with the revenue, and all fees or other dues payable by any person to or on behalf of the village servants employed in revenue or police duties, and all cesses lawfully imposed upon land,<sup>1</sup> may be recovered in the same manner as arrears of land-revenue under the provisions of this Act, unless the recovery thereof shall have been or may hereafter be otherwise specially provided for.

Similar process in case of other species of revenue, advances, fees and cesses.

**53.** Persons employed in serving notices, or in other process under this Act, shall be entitled to batta at such rates as may, from time to time, be fixed by the Board of Revenue with the sanction of Government, and published in the District Gazette.

Process-servers to be paid batta.

**54.** The batta mentioned in the foregoing section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

Interest and charges recoverable as arrears.

**55.** Where property having been attached or distrained may be ordered to be put up for sale, and the sale may be countermanded, the proprietor shall, nevertheless, be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place; and in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

Who to bear expense of countermanded sale.

Recovery thereof.

<sup>1</sup> Including local rates under the Madras Local Funds Act, 1871 (Mad. Act IV of 1871), s. 49 — see now the Madras Local Boards Act, 1881 (V of 1884), s. 3 (vii), where a local fund is defined to mean and include a district fund and a taluk fund in those districts in which that Act has been brought into force.

Receipts for  
payment of  
revenue.

**56.** Every person making a payment of revenue shall be entitled to a receipt for the same, signed by the Collector or other officer empowered by the Collector in that behalf; such receipt shall state the name of the person making the payment and the subject-matter in respect of which it is paid, and, in case of land-revenue, shall describe the land on which the assessment is due and the names of the persons entered in respect thereof in the settlement account.

Procedure  
where  
defaulter  
or surety  
resides out of  
district.

**57.** Where a defaulter or his surety may reside or hold property out of the district wherein default shall have been made, the Collector of the district in which such defaulter or surety resides or holds property shall, on the written application of the Collector in whose district such default has been made, proceed in all respects against the defaulter and his surety, and his or their property in the same manner as if the default had been made in his own district. Every such application shall be signed and sealed by the Collector making it and shall be conclusive as to the amount due, and the party in arrear, in all proceedings against the Collector acting upon such application, or any person acting under his authority; and no proof of the seal, or signature or official character of the Collector making the application shall be required, unless the Court shall see reason to doubt its genuineness: provided always, that nothing herein contained shall affect the right of any party to sue in his own district the Collector who made the application.

Effect of  
Collector's  
application.

Saving of  
right to sue  
applicant.

<sup>1</sup> [A Collector may delegate all or any of his powers and duties under this section to any subordinate revenue officer not below the rank of Deputy Tahsildar.]

Cognizance  
of questions  
relating to  
rate of  
revenue.

**58.** No Court of Civil Judicature shall have authority to take into consideration or decide any question as to rate of land-revenue payable to Government, or as to the amount of assessment fixed, or to be hereafter fixed on the portions of a divided estate.

Suits by  
persons  
aggrieved by  
proceedings.

**59.** Nothing contained in this Act shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as herein-before provided, from applying to the Civil Courts for redress: provided that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.

Limitation.

Survival of  
suits against  
Collector.

**60.** No suit brought against any Collector by any person deeming himself aggrieved by anything done or purporting to be done under this Act, shall abate by reason of the departure from his district of the Collector against whom such suit shall have been brought; but the suit shall be continued against the successor of such Collector in all respects as though it had been instituted against himself. A suit may be brought against any Collector in his official capacity on account of anything done or purporting to have been done under this Act by his predecessor, subject to the limitation prescribed in

<sup>1</sup> This paragraph in square brackets was added to section 57 by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

1864: Mad. Act II.] *Revenue Recovery.*  
 1864: Mad. Act III.] *Abkari.*  
 1865: Mad. Act V.] *District Police.*

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the preceding section: provided that no Collector shall be personally liable for any official act of his predecessor.

61. Regulation V of 1822<sup>1</sup> shall not be applicable to sales of property under this Act.

62. Regulation XXVIII of 1802,<sup>1</sup> and Regulations I<sup>2</sup> and II<sup>2</sup> of 1803, shall be inoperative as respects arrears of revenue recoverable under this Act.

Liability for predecessor's acts.

Regulation V of 1822 not to apply to sales. Regulations XXVIII of 1802, and I and II of 1803, not to apply to arrears.

63. Nothing in this Act shall be held to bar the operation of the provisions of Regulation V of 1804<sup>3</sup> and of Regulation X of 1831,<sup>4</sup> in respect to the sale of lands of minors and other disqualified landholders.

Saving of Regulations V of 1804 and X of 1831.

64. Nothing in this Act shall apply to the collection of land-revenue within the limits of the Town of Madras, as defined by section 12, Regulation II of 1802<sup>5</sup> of the Madras Code.

Scope of Act.

65. [*Repeal of certain enactments.*] *Repealed by Act XII of 1873.*

66. [*Commencement of Act.*] *Repealed by Act XII of 1873.*

#### MADRAS ACT No. III OF 1864.<sup>6</sup>

*An Act for amending the Abkari laws of the Madras Presidency beyond the limits of the Madras Abkari as prescribed by Act XIX of 1852.*

#### MADRAS ACT No. I OF 1865.<sup>7</sup>

[THE MADRAS DISTRICT LIMITS ACT, 1865.]

[12th December, 1864; 5th January, 1865.]

An Act to provide for the alteration of the \* \* \* \*<sup>8</sup> limits of Districts or Zilas in the Madras Presidency.

1. It shall be lawful for the Governor in Council of Fort St. George, from time to time, to alter the limits of existing districts or zilas in any part of the Provinces subject to his control.

Power to alter limits of districts or zilas.

<sup>1</sup> Repealed by Mad. Act VIII of 1865, which has itself been repealed by Mad. Act I of 1908.

<sup>2</sup> Printed *supra*.

<sup>3</sup> Repealed except as regards the Scheduled Districts by Mad. Act I of 1902.

<sup>4</sup> Printed *supra*.

<sup>5</sup> The whole Regulation has been repealed by the Madras Civil Courts Act, 1873 (III of 1873), *supra*.

<sup>6</sup> This Act which was repealed locally by Mad. Act I of 1886 is still in force in the Bhadrachalam and Rakapilli taluqs of the Godavari District and in certain portions of the Agency tracts.

<sup>7</sup> Short title. "The Madras District Limits Act, 1865" was given by the Repealing and Amending Act, 1901 (XI of 1901).

The whole of the Act, except so much as empowers the Governor in Council to alter the limits of existing districts, was repealed by the Madras Civil Courts Act, 1873 (III of 1873). Printed *supra*.

<sup>8</sup> The words "Stations of Zillah Courts and" were repealed by the Repealing and Amending Act, 1901 (XI of 1901)—see the Third Schedule, Part III.

MADRAS ACT No. V OF 1865.<sup>1</sup>

[THE MADRAS DISTRICT POLICE (AMENDMENT) ACT 1865.]

[7th April, 1865; 28th April, 1865.]

## An Act to amend Act XXIV of 1859.

## Preamble.

WHEREAS it is expedient to amend Act XXIV of 1859<sup>2</sup> by giving power to any Magistrate in any case in which he shall impose a fine under that Act, and, where such fine shall not be forthwith paid, to apprehend and to detain, or to take security for the appearance of, any offender so fined and not forthwith paying his fine, until a return can be made to the Magistrate's warrant of distress; and whereas it is also expedient to lay down, with respect to offenders who are and who are not British subjects respectively, the course of procedure to be followed when no sufficient distress can be had; It is hereby enacted :—

Levy of forfeitures or penalties in case of non-payment.

1. All forfeitures or penalties imposed under the authority of Act XXIV of 1859,<sup>2</sup> for offences punishable by a Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the property of the offender within the limits of jurisdiction of the Magistrate of the district, by warrant under the hand of the Magistrate who made the order.

Offender may be detained or compelled to give security, if fine, etc., be not forthwith paid.

2. In case any fine, forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to the warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

When offender, if not a European British subject, may be imprisoned.

3. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate, by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Procedure if offender be

4. If the offender be a European British subject, the Magistrate shall record the facts and transmit such record to the Civil Court of the district

<sup>1</sup> Short title. "The Madras District Police (Amendment) Act, 1865" was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluqs of Bandrachalam and Rakapilli, in the Godavari District—see Fort St. George Gazette, 1879, Pt. I, p. 722, and Gazette of India, *ibid.*, p. 630.

<sup>2</sup> Printed *supra*.

1865: Mad. Act V.] *District Police.*  
 1865: Mad. Act VI.] *Official Seals.*  
 1865: Mad. Act VII.] *Irrigation-cess.*

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wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court. <sup>a European British subject.</sup>

5. This Act shall be read with, and be taken to be part of, Act XXIV of Construction, 1859.<sup>1</sup>

#### MADRAS ACT No. VI OF 1865.<sup>2</sup>

[THE MADRAS OFFICIAL SEALS ACT, 1865.]

[29th July, 1865 ; 19th August, 1865.]

An Act to enable the Governor in Council to direct and prescribe what official seals Collectors, Magistrates and other public officers shall have and use.

WHEREAS it is expedient that provision should be made for enabling the Governor in Council, from time to time, to direct and prescribe what official seals shall be used by Collectors, Magistrates and other public officers ; It is enacted as follows :—

1. \* \* \*<sup>3</sup> It shall be lawful for the Governor in Council, from time to time, to direct and prescribe what official seals shall be used by Collectors, Magistrates and other public officers, any Regulation or Act the contrary notwithstanding. <sup>Power to prescribe official seals.</sup>

2. [Repeal of Regulation II of 1803, section 10.] Rep. by the Repealing Act, 1873 (XII of 1873).

#### MADRAS ACT No. VII OF 1865.<sup>4</sup>

[THE MADRAS IRRIGATION CESS ACT, 1865.]

[29th July, 1865 ; 7th September, 1865.]

An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.

WHEREAS, in several districts of the Madras Presidency, large expenditure out of Government funds has been, and is still being, incurred in the con- <sup>Preamble.</sup>

<sup>1</sup> Printed *supra*.

<sup>2</sup> Short title, "The Madras Official Seals Act, 1865" was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Act was extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluqs of Bhadrachalam and Rakapilli in the Godavari District—see Fort St. George Gazette, 1879, Pt. I, p. 722, and Gazette of India, *ibid*, p. 630. It has been declared in force in the Rampa Country—see Gazette of India, 1879, Pt. I, p. 630.

<sup>3</sup> Certain formal words have been repealed by Act XII of 1873.

<sup>4</sup> Short title, "The Madras Irrigation Cess Act, 1865"—see the Repealing and Amending Act, 1891 (XII of 1891).

The Act was extended, under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 871, Fort St. George Gazette, 1898, Pt. I, p. 667.

struction and improvement of works of irrigation and drainage, to the great advantage of the country and of proprietors and tenants of land : and whereas it is right and proper that a fit return should, in all cases alike, be made to Government on account of the increased profits derivable from lands irrigated by such works ; It is enacted as follows : -

Power to  
levy water-  
cess in addi-  
tion to land-  
assessment.

**1.** (a) Whenever water is supplied or used for purposes of irrigation from any river, stream, channel, tank or work belonging to, or constructed by, Government, and also,

(b) whenever water by direct or indirect flow or by percolation or drainage from any such river, stream, channel, tank or work from or through adjoining land irrigates any land under cultivation or flows into a reservoir and is thereafter used for irrigating any land under cultivation, and, [in the opinion of the revenue officer empowered to charge water-cess, subject to the control of the Collector, the Board of Revenue and the Government] such irrigation is beneficial to, and sufficient for the requirements of, the crop on such land,—

it shall be lawful for the Government <sup>2</sup> [before the end of the revenue year succeeding that in which the irrigation takes place] to levy at pleasure on the land so irrigated a separate cess for such water, and the Government <sup>4</sup> may prescribe the rules under which, and the rates at which, such water-cess as aforesaid shall be levied : and alter or amend the same from time to time :

Provisos.

Provided that where a zamindar or inamdar or any other description of landholder not holding under ryotwari settlement is by virtue of engagements with the Government entitled to irrigation free of separate charge, no cess under this Act shall be imposed for water supplied to the extent of this right and no more :

Provided also that no cess shall be leviable under this Act in respect of land held under ryotwari settlement which is classified and assessed as wet, unless the same be irrigated by using without due authority water from any source hereinbefore mentioned and such source is different from or in addition to that which has been assigned by the Revenue-authorities or adjudged by a competent Civil Court as the source of irrigation of such land.

Rules for the  
recovery of  
water-cess  
from the  
landholder  
and the ryot.

**1-A.** (7) In the case of land included in an estate the cess due under this Act shall, notwithstanding anything contained in the Madras Revenue Recovery Act, 1864, be leviable in accordance with such rules as the Government <sup>11</sup> of 1864. may, after previous publication, prescribe in that behalf —

(a) from the landholder <sup>6</sup> or

<sup>1</sup> This section was substituted for the original ss. 1 and 4 by Mad. Act V of 1900 *infra*.

<sup>2</sup> These words in square brackets were substituted for the words " in the opinion of the Collector, subject to the control of the Board of Revenue and of the Government " by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *see infra*.

<sup>3</sup> The words in square brackets were inserted by Mad. Act II of 1913, s. 3 *infra*.

<sup>4</sup> For rules levied under the original section, see Madras List of Local Rules and Orders, Vol. 11, Ed.

<sup>5</sup> Section 1-A. was inserted by s. 4 of Mad. Act II of 1913 *infra*.

<sup>6</sup> As to meaning of these words, see s. 2 of Mad. Act II of 1913 *infra*.



- (b) from the ryot<sup>1</sup> or  
 (c) in shares from both.

(2) The amount payable by a landholder or a ryot under this Act shall be a first charge upon his interest in the land.

(3) Subject to the law of limitation of suits and to any express or implied contract between the landholder and the ryot, any sum collected from a landholder as water-cess between the 17th January 1911 and the commencement of this Act may be recovered by him from the ryot who at the date of the collection was holding the land in respect of which the cess was collected, where such ryot would have been liable to pay the cess if the rules to be framed under the Act had been in force at the date of collection.

(4) Nothing contained in this section shall affect the rights and liabilities of the landholder and the ryot *inter se* under any contract, express or implied, in regard to the payment of water-cess.

2. Arrears of water-cess payable under this Act shall be realised in the same manner as arrears of land-revenue are or may be realised by law<sup>2</sup> in the Madras Presidency. Water-cess how recoverable.

3. No action or other proceeding shall be had or taken, or be sustainable, against any officer for anything done by him previous to the passing of this Act, in, or relating to, the imposition or levying of any such water-rates heretofore imposed or levied with the sanction of the Local Government. Indemnification for acts done before passing of Act.

\* \* \* \* \*

## MADRAS ACT No. II OF 1866.<sup>4</sup>

[THE MADRAS CATTLE-DISEASE ACT, 1866.]

[16th March, 1866 ; 17th April, 1866.]

An Act for the prevention of the spread of disease among Cattle in the Madras Presidency.

WHEREAS it is expedient to take measures to prevent the spreading of contagious or infectious diseases among animals in the Presidency of Madras;

<sup>1</sup> As to meaning of these words s. 2 of Mad. Act II of 1913 *infra*.

<sup>2</sup> See Mad. Act II of 1864, printed *supra*.

<sup>3</sup> As to original section 4 see footnote to the first section *supra*.

<sup>4</sup> Short title, "The Madras Cattle-disease Act, 1866" was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluqs of Bhadrachalam and Rakapilli in the Godavari District—see Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid*, p. 722.

Mad. Act I of 1879, printed *infra*, is to be read with this Act.

and, with that object, to prescribe by law in what way animals so infected shall be dealt with; It is hereby enacted as follows :—

Act to be extended to such places, and during such period of time, as the Governor in Council thinks proper.

Interpretation-clause.

“Magistrate.”

Number.

Gender.

Animal.”

Establishment of hospital-pounds.

1. This Act shall be put in force in such districts, or parts of district<sup>1</sup> and during such periods of time, as the Governor in Council [or subject to his control the Board of Revenue] may, from time to time, direct by notification in the Fort St. George Gazette.

2. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

the word “Magistrate” shall include all persons exercising all or any of the powers of a Magistrate :

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

words importing the masculine gender shall include the feminine :

the word “animal” shall mean any camel, buffalo, horse, pony, ass, bull, bullock, cow, heifer, calf, sheep, lamb, goat, kid or swine.

3. Whenever this Act shall have been applied, as above provided, to any district, or part of a district, hospital-pounds shall be established in such places, as the Magistrate of the district, [or, in the City of Madras, the President of the Municipal Commission,] shall determine, and keepers shall be appointed to such pounds by the said Magistrate.

<sup>1</sup> The Act has been extended to the following places :—  
Malabar, by Notification, dated 21st November, 1876—see Fort St. George Gazette dated 21st November 1878, p. 131 ;  
the Municipal limits of the City of Madras, by Notification, dated 3rd December, 1878—*ibid*, dated 3rd December, 1878, Pt. I, p. 706 ;  
to the Chingleput District and within the limits of the City of Madras, by Notification No. 385, dated 18th September, 1882—*ibid*, dated 19th September, 1882, p. 511—*ibid*, 11th December, 1883, p. 813 ;  
the Kistna District, by Notification No. 491, dated 9th December, 1882—*ibid*, dated 12th December, 1882, p. 739 ;  
parts of the Trichinopoly District by Notification No. 454, dated 30th October, 1882—*ibid*, dated 31st October, 1882, p. 638 ;  
the Chingleput District, by Notification No. 554, dated 10th December, 1883—*ibid*, dated 11th December, 1883, p. 813 ;  
the Nilgiri District, by Notification, dated 26th December, 1879—*ibid*, dated 30th December, 1879, p. 870 ;  
the Kurnool District, by Notification No. 246, dated 18th May, 1887—*ibid*, dated 25th May, 1887, p. 1373 ;  
part of the Tinnevely District, by Notification No. 88, dated 22nd February, 1908—*ibid*, 1908, Pt. I, p. 167.

It has been declared that the Act shall cease to be in force in the City of Madras—see Fort St. George Gazette, 1903, Pt. I, p. 56.

<sup>2</sup> These words in square brackets were inserted by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

<sup>3</sup> These words were inserted by Mad. Act I of 1879, s. I, printed *infra*.

The village or villages by which every hospital-pound is to be used shall be determined and notified by the Magistrate.

4. Whenever, in any district or part of a district to which this Act has been extended as above provided, any animal is attacked by any contagious or infectious disease, it shall be the duty of the owner, or of the person in charge thereof, to give immediate notice to the keeper of the hospital-pound provided for the village or township in which the animal may at the time be.

Notice by owner of cattle attacked by disease.

5. On receiving notice as aforesaid, the keeper of the hospital-pound shall, as soon as possible, examine the animal, and shall decide whether it is necessary to place it in the hospital-pound for treatment.

Examination by pound-keeper.

6. If the keeper of the hospital-pound should be of opinion that the animal has any contagious or infectious disease, he shall thereupon require the owner of the animal, or the person in charge thereof, to place it in the hospital-pound, and, if necessary, shall require the owner, or the person in charge, to take such measures as he may direct for disinfecting the shed or other place in which the said animal may have been kept.

Removal to the hospital-pound.

Disinfection of cattle-shed.

7. Every keeper of a hospital-pound, or person thereto authorized by the Magistrate of the district, <sup>1</sup>[or, in the City of Madras, the President of the Municipal Commission,] shall have power, within the range for which he is appointed, to enter upon and inspect any premises or place in which any animal or animals, which he suspects to be labouring under any contagious or infectious disease, may be found, and to examine and inspect, whenever or wherever he may deem it necessary, any animal or animals which he suspects to be labouring under such disease, and to require the removal of such animal or animals to the hospital-pound for the range.

Inspection of places in which animals, suspected to be diseased, are found.

8. Every keeper of a hospital-pound, or person thereto authorized by the Magistrate of the district, <sup>1</sup>[or, in the City of Madras, the President of the Municipal Commission,] shall have power, within his range, to cause to be cleansed and disinfected, in any manner which he may think proper, any premises in which any animal labouring under any contagious or infectious disease has been or may be, and to cause to be disinfected, and, if necessary destroyed, any fodder, manure or refuse-matter which he may deem likely to propagate the said disease.

Cleansing of premises in which diseased animal has been or is. Disinfection of fodder, etc.

9. From the time when any animal affected as aforesaid is taken charge of by the keeper of the hospital-pound, all expenses incurred on account of feeding and medical treatment for the said animal shall be borne by the cattle-pound fund established under Act <sup>2</sup>III of 1857 unless the owner, or person in charge thereof, desires to supply the food and medicines himself: Provided always that such food and medicines shall be such as the keeper of the hospital-pound may approve or direct.

Expenses for food and treatment by whom to be borne.

<sup>1</sup> These words were inserted by Mad. Act I of 1879, s. 1, printed *infra*.

<sup>2</sup> The references to this Act should be read as if made to the Cattle-trespass Act, 1871 (I of 1871), *vide* s. 2 of the latter Act in Genl. Acts, Vol. II.

Power to  
destroy  
diseased  
animals.

**10.** The keeper of the hospital-pound, or other person thereto authorized by the Magistrate of the district, <sup>1</sup>[or, in the City of Madras, the President of the Municipal Commission,] shall be empowered to destroy any animal either before or after it has been impounded as aforesaid, whenever it shall appear to him to be necessary to prevent the spread of contagion or infection.

Burial of  
carcasses.

When any animal shall have been so destroyed, or shall die whilst in charge of the keeper of the hospital-pound, it shall be the duty of the said keeper to have the carcass of the said animal buried at least six feet below the surface of the ground, and any cost incurred in so doing shall be met from the cattle-pound fund.

Bar of claim  
to compensa-  
tion.

No compensation shall be claimable in respect of any loss incurred by reason of any act authorized by this section.

Owner to pay  
costs for  
animal cured.

**11.** Should an animal impounded as aforesaid recover from the disease under which it may have been labouring, the owner or person who was in charge thereof shall pay to the keeper of the hospital-pound, to be placed to the credit of the cattle-pound fund, the actual cost of the feeding and treatment of such animal.

Recovery in  
case of de-  
fault.

Should he fail to pay the expenses aforesaid, then the said animal shall be sold by auction, and the sum realized by its sale, after deducting the amount of the expenses, shall be paid over to the owner, or the person who was in charge :

Owner when  
not charge-  
able

Provided always that, in such cases as the owner or person who was in charge may elect to supply food and medicine, he shall not be required to pay any charges whatever.

Bar to  
removal,  
without  
license, of  
animal in  
contact with  
diseased  
cattle.

**12.** No person having in his possession, or under his custody, any animal which has been in the same shed or stable, or in the same herd or flock, or in contact, with any animal labouring under any contagious or infectious disease, shall remove such animal alive from his land or premises without the license of the keeper of the hospital-pound for the range, or of some person authorized by the Magistrate of the district, <sup>1</sup>[or, in the City of Madras, the President of the Municipal Commission] to grant such license.

Licenses.

Every such license shall be in writing, and shall only permit the removal of such animal to some place where it can be conveniently kept apart from all other animals, until the hospital pound-keeper, or other person authorized as aforesaid, is satisfied that there is no reasonable probability of such animal propagating the disease.

Penalty for  
failing to  
give notice  
when animal  
is attacked  
by disease.

**13.** If any person who may be in charge of any animal at the time of its being attacked by a contagious or infectious disorder shall fail to give notice to the hospital-pound keeper of the village, as required in section 4, the said person shall be liable, on conviction before a Magistrate, to a fine not exceeding rupees five for every instance of such neglect, commutable, if not paid, to simple imprisonment for any period not exceeding ten days.

<sup>1</sup> These words were inserted by Mad. Act I of 1879, s. 1.

14. Any person who shall fail to comply with the directions of a hospital-pound-keeper, or of a person duly authorized by the Magistrate of the district, <sup>Penalty for refusing to obey directions of cattle-pound-keeper, etc.</sup> <sup>1</sup>[or, in the City of Madras, the President of the Municipal Commission,] in that behalf, as to the impounding any diseased animal; or to the disinfecting any premises or place where any diseased animal may have been kept; or to the disinfecting or destroying any fodder, manure and refuse-matter which may be likely to propagate the disease; or who may remove, without a license, any animal which has been in the same shed or stable, or in the same herd or flock, or in contact with any animal labouring under any contagious or infectious disease,—shall, on conviction before a Magistrate, be liable, for every such offence, to a fine of twenty rupees, commutable, if not paid, to simple imprisonment for any period not exceeding ten days.

15. In any district or part of a district in which this Act is in force, it shall be the duty of all hospital-pound-keepers, of all Police-officers not below the rank of a head-constable, and of such other persons as the Magistrate of the district, <sup>Penalty for opposing seizure and impounding of diseased animals.</sup> <sup>1</sup>[or, in the City of Madras, the President of the Municipal Commission,] may especially empower, to seize and impound all animals suffering from contagious or infectious disease, and any person who shall forcibly oppose such seizure, or who shall forcibly rescue the animals after such seizure, shall be deemed to have committed an offence punishable under section 186 of

XLV of 1860, the Indian Penal Code.<sup>2</sup>

16. Any person whose animals shall have been seized as being diseased may prefer a complaint against the seizure, at any time within ten days from the date thereof, to any Magistrate. <sup>Complaint of seizure by owner.</sup>

The complaint may be either verbal, in which case the substance of it shall be taken down in writing by the Magistrate, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances. <sup>Form of complaint.</sup>

If, on examination of the complainant or his agent, the Magistrate shall see reason to believe the complaint to be well founded, he shall summon the party complained against, and shall proceed to make a summary inquiry into the case. <sup>Procedure thereon.</sup>

If the seizure be adjudged illegal, the Magistrate shall award to the complainant such damages as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure, together with all expenses incurred by the complainant in procuring the release of the animals; or, if the animals have not been released, the Magistrate, in addition to the award of damages, shall make an order for their release, and shall direct that the expenses leviable under this Act shall be paid by the party who made the seizure.

The amount of all damages and expenses so awarded shall be recoverable according to the process prescribed in Act No. V of 1865 (Madras)<sup>3</sup> for the

<sup>1</sup> These words were inserted by Mad. Act I of 1879, s. 1.

<sup>2</sup> General Acts, Vol. I.

<sup>3</sup> Printed *supra*.

recovery of forfeitures or penalties imposed under the authority of Act XXIV of 1859.<sup>1</sup>

Fees and  
fines to be  
credited to  
cattle-pound  
fund.

17. All fines levied under this Act shall be credited to the cattle-pound fund established under the provisions of Act <sup>2</sup>III of 1857, which fund shall be available for payment of all expenses incurred under the provisions of this Act:

Reward to  
informer.

Provided that it shall be lawful for the officer inflicting a fine under this Act to direct any portion thereof, not exceeding one-half, to be paid to the informer.

Power to  
make  
bye-laws.

18. It shall be lawful for the Governor in Council, by notice published in the Fort St. George Gazette, to make and prescribe such bye-laws as may from time to time seem necessary for the more effectually preventing the spreading of infectious or contagious diseases among animals: provided that such bye-laws shall not be repugnant to the provisions of this or any other Act.

Penalty for  
breach.

A breach of any such bye-laws shall render the party liable, on conviction before a Magistrate, to a fine not exceeding rupees ten, commutable to simple imprisonment for fifteen days.

#### MADRAS ACT No. IV OF 1866.<sup>3</sup>

[THE MADRAS ENFRANCHISED INAMS ACT, 1866.]

[30th August, 1866 ; 24th September, 1866.]

An Act to exempt enfranchised Village or other Service inams, whether Revenue or Police, from the operation of Regulation VI of 1831.<sup>4</sup>

Preamble.

WHEREAS in the Madras Presidency certain inams attached to hereditary village or other offices in the Revenue and Police Departments--the claims connected with which are, under the provisions of Regulation VI of 1831,<sup>1</sup> exclusively adjudicable by the officers of Government in the Revenue Department--have been, and may yet be, under sanction of Government, enfranchised from the condition of service and placed in the same position as other descriptions of landed property, in regard to their future succession and transmission; It is hereby enacted as follows:--

Regulation  
VI of 1831  
not to  
apply to

1. All hereditary village or other service inams, falling hitherto exclusively under the cognizance of the officers of Government in the Revenue Department, under the provisions of Regulation VI of 1831,<sup>2</sup> which have been or

<sup>1</sup> Printed *supra*.

<sup>2</sup> The references to this Act should be read as if made to the Cattle-trespass Act, 1871 (I of 1871), *vide* s. 2 of the latter Act in Genl. Acts, Vol. II.

<sup>3</sup> Short title. "The Madras Enfranchised Inams Act, 1866" was given by the Repealing and Amending Act, 1901 (XI of 1901). As to the true intent and meaning of this Act, see Madras Act VIII of 1893, *infra*.

<sup>4</sup> Regulation VI of 1831 has been repealed except in the Scheduled Districts by the Madras Hereditary Village Offices Act, 1895 (Mad. Act III of 1895), *infra*.

1866: Mad. Act IV.] *Enfranchised Inams.*

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1867: Mad. Act I.] *General Clauses.*

shall be enfranchised from the condition of service by the Inam Commissioner, or other officer acting under the sanction of Government, shall be exempt from the operation of the aforesaid Regulation.

2. The title deed issued by the Inam Commissioner or other officer duly authorized or an authenticated extract from the register of the Commissioner or other officer, shall be deemed sufficient proof of the enfranchisement of the land previously held on service tenure.

3. Provided that nothing in this Act shall be construed as authorizing any Court of Civil Judicature to call into question decisions affecting any service inams which may have been already passed by revenue officers acting under the provisions of Regulation VI of 1831 prior to the enfranchisement of such inams.

#### MADRAS ACT No. I OF 1867.<sup>1</sup>

[THE MADRAS GENERAL CLAUSES ACT, 1867].

[15th February, 1867; 21st March, 1867.]

An Act to shorten the language used in Acts of the Governor of Fort St. George in Council, and to make certain provisions relating thereto.

WHEREAS it is expedient to enact once for all certain definitions of terms usually employed in the Acts of the Governor of Fort St. George in Council, and to make certain other provisions regarding such Acts; It is enacted as follows :—

1. Whenever, in any future Act of the Governor of Fort St. George in Council, any word or expression shall be employed which has been defined in Chapter II of the Indian Penal Code,<sup>2</sup> or in Chapter I of the Code of Criminal Procedure,<sup>3</sup> such word or expression shall be taken to have the meaning assigned to it in those Chapters, unless it be otherwise provided by the Act, or unless there be something either in the subject or context repugnant to such construction.

2. *First.*—The words “Magistrate of Police” shall denote any person exercising the powers of a Magistrate of Police within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras for the time being.

*Second.*—The words “Town of Madras” shall denote such places as are within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

<sup>1</sup> This Act does not apply to any Act passed after 1st January, 1892—see Madras General Clauses Act, 1891 (Mad. Act I of 1891), s. 2, *infra*.

<sup>2</sup> Printed, General Acts, Vol. I.

<sup>3</sup> See now Act V of 1898, printed, General Acts, Vol. V.

Repeal of  
Act not to  
revive laws  
repealed  
thereby.

3. Where any Act, repealing in whole or in part any former enactment, is itself repealed, such last repeal shall not revive the enactment, or any of the provisions thereof, before repealed, unless words be added revising such enactment or provisions.

Matters prior  
to repeal  
unaffected.

4. The repeal of any Act or Regulation shall not affect any act which shall have been done, or any offence which shall have been committed, or any fine or penalty which shall have been incurred, or any proceedings which shall have been commenced, before the repealing Act shall have come into operation.

Commence-  
ment of  
future Acts.

5. Where in any future Act of the Governor of Fort St. George in Council no time is mentioned at which the same shall come into operation, such Act shall take effect from such date as the Governor in Council may notify by publication in the Fort St. George Gazette.

6 & 7. [*Judicial notice of Madras Acts : recital of public fact to be prima facie evidence of its truth.*] Rep. by the Repealing and Amending Act, 1874 (XVI of 1874).

Short title.

8. This Act may be cited for all purposes as the Madras General Clauses Act, 1867.

#### MADRAS ACT No. VI OF 1867.<sup>1</sup>

[THE MADRAS CITY LAND-REVENUE (AMENDMENT) ACT, 1867.]

[28th May, 1867 ; 27th June, 1867.]

An Act to amend Act XII of 1851<sup>2</sup> (an Act for securing the Land-revenue of Madras).

Preamble.

WHEREAS, in the preamble to Act XII of 1851,<sup>2</sup> it is declared to be expedient that the land-revenue accruing due to the Government of India within the town of Madras should be ascertained and collected in as summary a manner as in other parts of the territories under the said Government, and it is enacted in section 9 of the said Act that the claim of the Government for land-revenue has priority over all claims upon the land ; and whereas in other parts of the said territories the land itself is the security for the revenue assessed thereon and is liable to be sold for the discharge of arrears, and there is no sufficient reason for exempting land situated within the town of Madras from the same liability ; and whereas it is expedient to give additional powers to the distraining officer appointed by the Collector of Madras under section 7 of the said Act ; It is hereby enacted as follows :—

"Revenue"  
defined.

1. The word "revenue," as used in this Act, shall mean assessment, quit-rent, ground-rent or other charge upon the land payable to the Government.

2. [*Repeal of Act XII of 1851, s. 7.*] Rep. by the Repealing Act, 1873 (XII of 1873).

<sup>1</sup> Short title. "The Madras City Land-revenue (Amendment) Act, 1867" was given by the Repealing and Amending Act, 1901 (XI of 1901).

<sup>2</sup> Printed *supra*.



3. The land and the buildings thereon shall be regarded as the security of the public revenue. Security for revenue.

4. Whenever any owner, tenant or occupier of land subject to the payment of revenue to the Government, or whenever any person holding such land shall, upon the written demand of the Collector, or any officer duly empowered to act on the Collector's behalf, refuse or neglect to pay any sum with which the land is charged as revenue, the Collector shall proceed for the recovery of such revenue by distress and sale of the moveable property of the owner wherever found, or, in the case of the tenant or occupier or holder of the land, by distress and sale of any moveable property found upon such land. In default of payment, Collector to recover revenue by distress and sale of moveable property.

If, however, the Collector shall not be able to recover the arrears due by distress and sale of the moveable property as aforesaid, it shall be lawful for the Collector to cause the land and buildings thereon to be sold for the arrear which has accrued due thereon, in the manner hereinafter provided. Collector may sell lands, if arrears not recoverable by distress.

5. Arrears of revenue accruing on land within the town of Madras shall bear interest at the rate of six per cent per annum. Interest on arrears.

6. In the seizure and sale of moveable property for arrears of revenue, the following rules shall be observed :— Rules as to seizure and sale of moveable property. Collector to furnish distrainer with demand in writing.

*First.*—The Collector shall employ a person, hereinafter called the distraining officer, to distrain the property, and shall furnish to such officer a demand in writing, signed by the Collector, or by some officer empowered by him in that behalf, specifying the amount of the arrear for which the distress shall be issued, and the date on which the arrear fell due.

*Second.*—The distraining officer shall produce the writing as authority for making the distress, and on the day on which the property shall be distrained shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where the property may be lodged or kept. Copy to defaulter.

*Third.*—The writing shall further set forth that the distrained property will be brought to public sale within seven days, unless the amount of the arrear with interest and all expenses of the distress be previously discharged. Writing to state that property will be sold.

*Fourth.*—When a defaulter shall be absent, a copy of the writing, with the endorsement, shall forthwith be fixed or left at his usual place of residence. Service when defaulter absent.

7. When a defaulter, on receiving notice, shall neglect to pay the amount due, or when a defaulter shall have absconded or be otherwise not forthcoming, so that the notice cannot be served upon him, the distraining officer shall transmit an inventory of the property distrained to the Collector. Procedure when defaulter neglects to pay after notice.

8. If a defaulter whose property has been distrained shall, before the day of sale, tender payment of the arrear demanded, together with interest and all expenses attending the distress, the distraining officer shall receive the amount of the arrear, interest and expenses, and shall forthwith release the property. Effect of tender of arrear and expenses prior to sale.

Distress proportionate to arrear.

9. The distress levied shall not be excessive, and the value of property distrained shall be, as nearly as possible, proportionate to the amount of the arrear.

Time for distress.

10. The distress shall be made after sunrise and before sunset, and not at any other time.

What places distrainer may force open.

11. The distraining officer shall have power to force open any stable, cow-house, granary, store-house, out-house or other building, as also to enter any dwelling-house the outer door of which may be open (excepting the apartments in such dwelling-house appropriated for the *zanáná* or residence of women, which, by the usage of the country, are considered private), and to break open the door of any room in such dwelling-house for the purpose of attaching property liable to attachment under this Act.

Distrainer's power to force open doors in presence of Police-officer.

12. Where a distraining officer shall have reason to suppose that the property liable to attachment under this Act is lodged within a dwelling-house the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such officer shall represent the same to the officer in charge of the nearest police-station within the limits of the town of Madras; and, on such representation, the officer in charge of the said station shall send a Police-officer to the spot, in the presence of whom the distraining officer may force open the outer door of such dwelling-house.

Distrain within *zanánás*.

13. The distraining officer may also, in the presence of the Police-officer, after due notice given for the removal of women within a *zanáná*, and after furnishing means for their removal in a suitable manner, if they be women of rank who, according to the custom of the country, cannot appear in public, enter the *zanáná* apartments for the purpose of distraining the defaulter's property therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

Demand to be served prior to attachment of land.

14. Before the Collector, or other officer empowered by the Collector in that behalf, proceeds to attach the land of a defaulter, or buildings thereon, he shall cause a written demand to be served upon the defaulter, specifying the amount due, the land in respect of which it is claimed, the name of the party in arrear, the *batta* due to the person who shall serve the demand, and the time allowed for payment, which shall be seven days from the date of service upon him.

Mode of service.

Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized agent, or by affixing a copy thereof on some conspicuous part of his last-known residence, or on some conspicuous part of the land about to be attached.

Procedure on non-payment.

15. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, or other officer empowered by

the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner.

**16.** The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. Mode of attachment.

The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law.

The attachment shall be notified by the public proclamation on the land, and by publication of the notice in the official Gazette of the Madras district.

**17.** It shall be lawful for any person claiming an interest in land which has been or is about to be attached to obtain its release by paying the arrears, interest and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then or afterwards due by him to the defaulter; and, if paid by a *bonâ fide* mortgagee or other incumbrancer upon the estate, shall constitute a debt from the defaulter to him, and shall be a charge upon the land, but shall, in the absence of any valid engagement to the contrary, only take priority over other charges according to the date at which the payment was made. Persons interested in land may release it from attachment.

**18.** In the sale of immoveable property under this Act the following rules shall be observed:— Rules as to sale of immoveable property. Public auction.

*First.*—The sale shall be by public auction to the highest bidder.

The time and place of sale shall be fixed by the Collector or other officer empowered by the Collector in that behalf.

*Second.*—Previous to the sale, the Collector, or other officer empowered by the Collector in that behalf, shall issue a notice thereof in English and in Tamil or Hindustani, specifying the name of the defaulter; the position and extent of land and of the buildings thereon; the amount of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current revenue-year; and the time, place and conditions of sale. Notification before sale.

This notice shall be fixed up one month at least before the sale in the Collector's office, in the nearest police-station-house, and on some conspicuous part of the land.

*Third.*—A sum of money equal to fifteen per cent of the price of the lands shall be deposited by the purchaser in the hands of the Collector, or other officer empowered by the Collector in that behalf, at the time of the purchase; and, where the remainder of the purchase-money may not be paid within thirty days, the money so deposited shall be liable to forfeiture. Deposit at time of purchase.

*Fourth.*—If the purchaser refuse or omit to deposit the said sum of money or to complete the payment of the remaining purchase-money the property shall be re-sold at the expense and hazard of such purchaser; and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Re-sale in default of payment.

If the lands, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Agents to  
name  
principals.

*Fifth.*—All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as agents, and in the latter case to deposit a written authority signed by their principal.

If such requisition be not complied with, their bids may be rejected.

Tender of  
arrears up to  
sunset on day  
before sale.

**19.** It shall be competent to the defaulter or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching the property, or in taking the steps necessary for sale, and thereupon the sale shall be stayed :

Provided always that such tender must be made before sunset on the day previous to that appointed for the sale ; and all sums so paid by any tenant or *bond fide* mortgagee, or other incumbrancer, may be recovered in the manner provided in section 17.

Purchaser to  
be registered.

Effect of  
certificate.

**20.** Lands purchased at a public sale shall be registered in the name of the actual purchaser, who shall receive a certificate of sale signed and sealed by the Collector, which shall be conclusive evidence of the fact of the purchase in all Courts and Tribunals where it may be material to establish the same ; and no proof of the Collector's seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness.

Proclamation  
of sale.

**21.** When lands may be purchased at public sale, the Collector, or other officer empowered by the Collector in that behalf, shall publish in the villages in which the land sold may be situated, in the Collector's *kachari*, and in the official Gazette of the Madras district, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

Delivery of  
possession.

**22.** If, notwithstanding such publication, any lawful purchaser of land be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by section 20, shall cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the purchased lands had been decreed to the purchaser by a decision of the Court.

Contracts  
and pay-  
ments  
binding on  
purchaser.  
Sale free of  
incumbran-  
ces.

**23.** All contracts entered into by the defaulter with his tenants, and all payments to him by them, shall be binding upon the purchaser as they would have been binding upon the defaulter.

**24.** All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, except such as were *bond fide* created before the coming into operation of this Act ;

and if any balance shall remain after liquidating the arrears with interest, and the expenses of attachment and sale, and other costs due in respect of such arrears, it shall be paid over to the defaulter, unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

**25.** Arrears of rent which, on the day of sale, may be due to the defaulter from his under-tenants shall, in the event of the sale, be recoverable by him after the sale by any process, except distraint, which might have been used by him for that purpose before the said sale.

Recovery of arrears due to defaulter on day of sale.

**26.** It shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrears of revenue :

Sale of land.

Provided always that, so far as may be practicable, no larger section in the land shall be sold than may be sufficient to discharge the arrears, with interest, and expenses of attachment and sale.

**27.** When a defaulter tenders security, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint.

Sale may be postponed on tender of security.

In the event of default being made in the performance of such conditions, the Collector or such officer may sell the property and proceed against the defaulter, or against his security, or both.

**28.** Persons employed in serving notices or in other process under this Act shall be entitled to batta at such rates as may from time to time be fixed by the Board of Revenue with the sanction of Government and published in the official Gazette of the Madras district.

Process-servers to be paid batta.

**29.** The batta mentioned in the foregoing section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

Interest and charges recoverable as arrears.

**30.** If property having been attached or distrained be ordered to be put up for sale, and the sale be countermanded, the proprietor shall nevertheless be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place ;

Expense of countermanded sales to be sustained by the defaulter,

and, in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

and recovered as an arrear.

**31.** Nothing contained in this Act shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as herebefore provided, from applying to the Civil Courts for redress :

Suits by persons aggrieved by proceedings.

Provided that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.

Limitation of suits.

Survival of  
suits against  
Collector.

**32.** No suit brought against the Collector by any person deeming himself aggrieved by anything done or purporting to be done under this Act shall abate by reason of the departure of the Collector from the district; but the suit shall be continued against the successor of the Collector in all respects as though it had been instituted against himself.

Liability for  
predecessor's  
acts.

A suit may be brought against the Collector in his official capacity on account of anything done or purporting to have been done under this Act by his predecessor, subject to the limitation prescribed in the preceding section: Provided that the Collector shall not be personally liable for any official act of his predecessor.

Act read  
with Act  
XII of 1851.

**33.** This Act shall be read with, and taken as part of, Act XII of 1851.<sup>1</sup>

### MADRAS ACT No. III of 1869.<sup>2</sup>

[ THE MADRAS REVENUE SUMMONSES ACT, 1869.]

[9th March, 1869; 23rd April, 1869.]

An Act to empower Revenue-officers to summon persons to attend at their kacháhris for the settlement of matters connected with Revenue-administration.

Preamble.

WHEREAS it is found that the revenue-administration of the country is retarded, because Revenue-officers, namely, Collectors, Sub-Collectors, Assistant Collectors, Deputy Collectors, Tahsildárs and Deputy Tahsildárs, are not made competent, by express provision of law, to issue summonses for the attendance of persons, or the production of documents, in certain cases in which it is their duty to hold investigations; It is hereby enacted as follows :-

Revenue-  
officers  
empowered  
to summon  
persons to  
appear or  
to produce  
documents.

**1.** Collectors, Sub-Collectors, Assistant Collectors, Deputy Collectors, Tahsildárs and Deputy Tahsildárs shall have power to summon all persons resident within the district, whose evidence may appear to them to be necessary for the investigation of any matter in which they are authorized to hold an inquiry, and also to require the production of any document relevant to the matter under inquiry, which may be in the possession or under the control of such person.

Terms of  
summons.

**2.** Such summons shall be in writing, and authenticated by the signature and seal of the officer by whom it is issued.

<sup>1</sup> Printed *supra*.

<sup>2</sup> Short title, "The Madras Revenue Summonses Act, 1869" was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act has been declared in force in the Rampa Country under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874) —see Gazette of India, 1879, Pt. I, p. 630.

It has been extended, under s. 5 of the same Act, to the taluqs of Bhadrachalam and Rakapalli in the Godavari District—see Gazette, *ibid*; to the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 872.

<sup>3</sup> Ss. 2 to 5 of this Act apply, *mutatis mutandis*, to summons under Mad. Act V of 1894 —see s. 3 of that Act *infra*.

It shall require the person summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence, or to produce a document, or for both purposes; and any particular document, the production of which is required, shall be described in the summons with convenient certainty.

<sup>13</sup> The summons shall be served personally on the person summoned, or, if he cannot be found, it may be left for him with some adult member of his family residing with him, or with the head of the village in which he lives.

<sup>14</sup> Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced, instead of attending personally to produce the same.

<sup>15</sup> When the person whose evidence may be required is unable, from sickness or infirmity, to attend before the officer issuing the summons, or is a person whom by reason of rank or sex it may not be proper to summon, the officer issuing the summons may, of his own motion, or on the application of the party whose evidence is desired, dispense with the appearance of such person, and order him to be examined by a subordinate deputed by such officer for the purpose.

#### MADRAS ACT No. VII OF 1869.

##### [THE MOPLAH OUTRAGES ACT CONTINUANCE ACT, 1869.]

[12th November, 1869; 3rd December, 1869.]

An Act to continue Act No. XX of 1859<sup>2</sup> (*An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George*).

WHEREAS Act No. XX of 1859<sup>2</sup> will expire on the thirty-first day of December, 1869; and whereas it is expedient to continue the said Act beyond that period; It is enacted as follows:—

<sup>1</sup> Act No. XX of 1859<sup>2</sup> (*An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George*) shall continue in force from the passing of this Act until the Governor of Fort St. George in Council shall, by an order published in the Fort St. George Gazette, declare otherwise.

<sup>2</sup> Section 13 of the said Act is hereby repealed.

<sup>3</sup> This Act may be called the Moplah Outrages Act Continuance Act.

Act XX of 1859 continued.  
Section 13 repealed.  
Short title.

<sup>1</sup> See footnote to s. 2.

<sup>2</sup> Printed *supra*.

MADRAS ACT NO. VIII OF 1869.<sup>1</sup>

[THE MADRAS INÁMS ACT, 1869.]

[27th May, 1868 ; 8th December, 1869.]

An Act to prevent doubts as to the true intent and meaning of certain words used in the title-deeds of ináms heretofore furnished to inám-holders by the Inám Commissioner of the Madras Presidency, and to declare the true intent and meaning of Madras Acts IV of 1862<sup>2</sup> and IV of 1866.<sup>2</sup>

Preamble.

WHEREAS, under the rules sanctioned by the Local Government in the year 1859, and published in the Fort St. George Gazette dated the 4th October, 1859, for the adjudication and settlement of inám-lands in the Madras Presidency, the Inám Commissioner of the said Presidency is required to furnish inám-holders with title-deeds in respect of their ináms, prepared according to certain forms prescribed by the said Government ; and whereas the terms of the title-deeds so prepared appear in many cases to convey a more extensive right than was intended to be given, or than could be legally given ; and whereas it is apprehended that the terms of the title-deeds may be so construed as to affect the rights and interests which other persons may have in lands from which the ináms are derived or drawn, in cases where the inám-holders do not possess the proprietary right in the soil, but only the right of receiving the rent or tax payable to Government in respect of the inam-lands as transferees of the Government, and it is therefore expedient to remove all doubts as to the true intent and meaning of the words used in the said title-deeds ; and whereas the words " land " and " lands " are used in Madras Acts IV of 1862<sup>2</sup> and IV of 1866<sup>2</sup> in connection with ináms in a sense not applicable to ináms, and it is expedient to explain the true intent and meaning of such words in the said Acts ; It is enacted as follows :—

Effect of wording of inám title-deeds and of wording of Madras Acts IV of 1862 and IV of 1866.

1. Nothing contained in any title-deed heretofore issued to any inám-holder shall be deemed to define, limit, infringe or destroy the rights of any description of holders or occupiers of the lands from which any inám is derived or drawn, or to affect the interests of any person other than the inám-holder named in the title-deed ; and nothing contained in Madras Act IV of 1862,<sup>2</sup> or in Madras Act IV of 1866,<sup>2</sup> shall be deemed to confer on any inám-holder any right to land which he would not otherwise possess.

<sup>1</sup> Short title, "The Madras Ináms Act, 1869" was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam—see Fort St. George Gazette, 1899, Pt. I, p. 888.

<sup>2</sup> Printed *supra*.



MADRAS ACT No. VII OF 1871.<sup>1</sup>

[THE MADRAS PIER (AMENDMENT) ACT, 1871.]

[7th February, 1871; 19th July, 1871.]

An Act to amend Madras Act V of 1863<sup>2</sup> (*An Act to prevent damage to the Madras Pier; to regulate the traffic, and to provide for the levying of tolls, upon the same*), and to provide for its extension to other Piers.

WHEREAS it is expedient to amend Madras Act V of 1863 (*An Act to prevent damage to the Madras Pier, to regulate the traffic, and to provide for the levying of tolls, upon the same*), by providing for the recovery of damages for injury done to the Madras Pier by any floating matter; and to enable the said Act to be extended to other piers within the Presidency; It is enacted as follows:—

1. The term "drift" shall be taken to mean all boats, timber or other floating matter, whether the same are, at the time they come into collision with the Madras Pier, in possession or under the control of any person, or not: Interpretation-clause.  
"Drift."

The term "owner" shall include consignee:

"Owner."

the term "Magistrate" shall include a Magistrate of the Town Police.

"Magistrate."

2. Whenever any drift shall foul the pier and thereby cause damage thereto, it shall be lawful for the Conservator of the port of Madras to seize such drift; and the amount of such damage shall be ascertained forthwith, or as soon as conveniently may be; Recovery of damages for injury to pier by drift.

and, upon the amount of such damage being proved before a Magistrate to his satisfaction, it shall be lawful for such Magistrate to make an order upon the owner of such drift for the payment of such amount:

and, if the same be not paid within twenty-four hours after demand upon, or notice of such order to, the owner, it shall be lawful for the Conservator of the port of Madras to sell the whole or any portion of such drift in the manner prescribed by section 10 of the said Act:

and out of the proceeds of such sale he shall pay to Government the sum ordered to be paid by the Magistrate, together with the reasonable costs of such seizure, detention and sale, rendering to the owner of such drift the surplus, if any, on demand.

3. When the owner of such drift is unknown or cannot be ascertained, it shall be lawful for the Magistrate to make a general order for the payment of the ascertained amount of damage; and a copy of such order shall be Sale of drift and disposal of sale.  
proceeds.

<sup>1</sup> Short title, "The Madras Pier (Amendment) Act, 1871" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, see Fort St. George Gazette, Supplement, dated 10th January, 1871, p. 4; for Report of the Select Committee, see *ibid.* Supplement, dated 24th January, 1871, p. 4(a); for Proceedings in Council, see *ibid.* Supplement, dated 10th January, 1871, p. 5, and *ibid.*, dated 31st January, 1871, p. 10.

The Act took effect from 1st September, 1871.

<sup>2</sup> Printed *supra*.

posted up in a conspicuous place at the custom-house ; and, at the expiration of twenty-four hours after such copy has been posted up, it shall be lawful for the Conservator of the port of Madras to sell such drift, and to pay over to Government the proceeds of such sale.

Any surplus which may exist after payment of the amount ordered by the Magistrate, and of the reasonable costs of seizure, detention and sale, and which may remain unclaimed by the owner after twelve months from the date of sale, shall be credited to the Port Fund.

Procedure in case of drift owned by several persons.

**4.** When any drift which has fouled and damaged the Madras Pier is the property of several owners, it shall be lawful for the Magistrate to make a general order upon all such owners for payment of the ascertained amount of damage ;

and thereupon it shall be lawful for the Conservator of the port of Madras to sell the whole or any part of such drift, and to make such payment to Government as is prescribed in section 2 of this Act, and to divide the surplus among the several owners of such drift by paying to each a sum which shall bear the same proportion to the whole surplus as the portion of such drift belonging to each such owner shall bear to the entire value of the whole drift.

Liability of owner of unsold part of drift to pay to owner of part sold.

**5.** When any such general order has been made under the preceding section, the owner or owners of any part of such drift which has remained unsold shall be liable to contribute to the owner or owners of such drift as has been sold, by paying to him or them a sum which shall bear the same proportion to the whole amount paid over to Government, as the value of the drift unsold bears to the value of the whole drift liable to be sold.

Magistrate's certificate as to amount payable by and to each owner of drift.

**6.** It shall be lawful for the Magistrate, by whom the amount of damage is ascertained, to certify, by an order under his hand, what amount of contribution is payable by and to each of the several owners of such drift ; and the amount so certified shall be recoverable by a civil suit ; and such order shall be conclusive evidence of the liability to pay the amount so certified.

Power to extend Act to other piers.

**7.** It shall be lawful for the Government of Madras to extend the provisions of this Act and Madras Act V of 1863<sup>1</sup> to any other pier<sup>2</sup> within the said Presidency, by notification in the Fort St. George Gazette and in the Gazette of the district in which such pier may be situate.

Construction of Act.

**8.** This Act shall be read with, and shall form part of, Madras Act V of 1863.<sup>1</sup>

<sup>1</sup> Printed *supra*.

<sup>2</sup> For extensions to other piers in seaport towns, see Vol. II of the Madras List of Local Rules and Orders, Ed. 1912, p. 4 ; also Fort St. George Gazette, 1901, Pt. I, pp. 250 and 1455.

MADRAS ACT NO. I OF 1873.<sup>1</sup>

[THE MADRAS WILD ELEPHANTS PRESERVATION ACT, 1873.]

[21st April, 1873 ; 15th May, 1873.]

An Act to prevent the indiscriminate destruction of wild elephants.

WHEREAS it is expedient to make provision to prevent the indiscriminate destruction of wild elephants within the Presidency of Madras ; It is hereby enacted as follows :—

1. This Act extends to the territories for the time being subject to the Government of the Presidency of Fort St. George ;  
and it shall come into force on the first day of October, 1873.

2. From and after the said day the destruction of wild elephants is prohibited, except as hereinafter provided.

3. Whoever shoots at, or intentionally destroys, or abets, within the meaning of the Indian Penal Code,<sup>2</sup> the shooting at, or destruction of, any wild female elephant upon waste or forest-land, whether such land be the property of Government or otherwise, shall be liable to a penalty not exceeding five hundred rupees, and, in default of payment, to simple or rigorous imprisonment for a period not exceeding three months.

Any person convicted under this Act of an offence committed after his previous conviction under this Act shall be liable to a penalty not exceeding one thousand rupees, and, in default of payment, to simple or rigorous imprisonment for a period not exceeding six months.

4. Whoever, not being authorized thereto by a license granted under the provisions of section 7, shoots at, or intentionally destroys, or abets, within the meaning of the Indian Penal Code,<sup>2</sup> the shooting at, or destruction of, any wild male elephant upon waste or forest-land the property of the Government, shall, upon a first or second conviction, be liable to the penalties and periods of imprisonment respectively provided for a first or second conviction in section 3 of this Act.

5. Nothing in this Act shall be deemed to prevent any zamindár or other proprietor or occupier of land, or any person duly authorized in that behalf by any such zamindár, proprietor or occupier, from destroying wild male elephants upon the waste or forest-lands of such zamindár, proprietor or occupier.

6. Nothing in this Act shall be deemed to prevent any person from shooting at, or destroying, any wild male or female elephant found upon cultivated lands, or upon or in the immediate vicinity of any public road, or to prevent any person from shooting at, or destroying, any male or female elephant in defence of himself or any other person.

<sup>1</sup> Short title, "The Madras Wild Elephants' Preservation Act, 1873" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, see Fort St. George Gazette, Supplement, dated 25th February, 1873, p. 4 ; for Proceedings in Council, see *ibid*, 25th February, 1873, p. 2, and *ibid*, dated 22nd April, 1873, p. 5.

<sup>2</sup> Printed, General Acts, Vol. I.

Licence to  
shoot male  
elephants.

7. The Collector or other officer in charge of a district may, subject to such rules as may from time to time be made by the Local Government, issue a license to any person authorizing him by name to shoot wild male elephants upon waste or forest-lands the property of the Government, in such district, for the period of one year from the date of the grant of such license.

Every such license shall become void at the expiration of the said period, but may be renewed by such Collector or other officer for a like period :

Proviso.

Provided that every such license shall become void upon the conviction under this Act of the person to whom such license was granted.

Power to  
make rules  
for grant or  
renewal of  
licenses.

8. The Local Government may make rules,<sup>1</sup> for regulating the grant or renewal of licenses under this Act, and the fees to be charged on such grant or renewal, and may from time to time alter or cancel such rules.

Limitation of  
prosecution.

9. Every prosecution under this Act shall be commenced within a period of six months from the date of the offence in respect of which it is instituted.

## MADRAS ACT No. I OF 1876.<sup>2</sup>

[THE MADRAS LAND-REVENUE ASSESSMENT ACT, 1876.]

[12th February, 1876 ; 3rd March, 1876.]

An Act to make better provision for the separate assessment of alienated portions of permanently-settled estates.

Preamble.

WHEREAS it is desirable to make better provision for the separate assessment to land-revenue of portions of permanently-settled estates alienated by sale or otherwise ; It is hereby enacted as follows :—

Application  
for registry  
and separate  
assessment.

1. The alienor or alienee of any portion of a permanently-settled estate, or the representative of any such alienor or alienee, may apply to the <sup>3</sup>[Collector of the district] in which such portion is situate for its registration in the name of the alienee and for its separate assessment in respect of land-revenue.

Inquiry by  
Collector.

2. The <sup>3</sup>[Collector] shall thereupon hold an inquiry as to who is the present owner of the property in respect of which the application is made.

<sup>1</sup> For instance of such a notification, see Madras List of Local Rules and Orders, Ed. 1912, Vol. II, p. 5.

<sup>2</sup> Short title, "The Madras Land-revenue Assessment Act, 1876" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For the Statement of Objects and Reasons, see Fort St. George Gazette, Supplement, dated 2nd March, 1875, p. 12 ; for Report of the Select Committee, see *ibid*, Supplement, dated 16th November, 1875, p. 1 ; for Proceedings in Council, see *ibid*, Supplement, dated 2nd March, 1875, p. 4 ; *ibid*, Supplement, dated 22nd November, 1875, p. 1, *ibid*, Supplement, dated 8th February, 1876, p. 2.

This Act took effect from 1st September, 1876.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—see Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, 1898, Pt. I, p. 666.

<sup>3</sup> For definition of "Collector," see s. 2 of Mad. Act II of 1914 *infra*.

For the purposes of such inquiry the <sup>1</sup>Collector shall publish a notice in the local Gazette, in three successive issues, that the application has been made, and that, unless cause is shown to the contrary within sixty days from the date of notice, such separate assessment will be made.

Procedure as to inquiry.

He shall also cause notice of the inquiry to be given to any alienor or alienee who has not joined in the application.

If on such inquiry it appears that the alienation has taken place and that all the parties to such alienation concur in applying for the separate assessment of the portion alienated, and if objection is not taken by any person interested in the estate, or being taken is disallowed by the <sup>1</sup>Collector, the <sup>1</sup>Collector shall proceed to register the alienated portion in the name of the alienee, and to apportion the assessment of such alienated portion in the manner provided in section 45 of Madras Act II of 1864,<sup>2</sup> 3[\* \* \* \*].

In what case registry and separate assessment should be made.

3. Upon such assessment being declared there shall be deducted from the land-revenue payable in respect of such estate an amount equal to the sum assessed on the portion so separately assessed.

Proportion of land-revenue to be deducted.

4. Upon such assessment being made, the portion so assessed shall no longer be liable in respect of arrears of revenue due by the estate of which it formed a part; nor shall such estate be liable in respect of the portion so assessed.

Assessed part not liable for arrears due by estate, nor estate for arrears due by part assessed.

5. Any person aggrieved by the fact of the separate registration of such portion may sue in a Civil Court for a decree declaring that such separate registration ought not to be made.

Persons aggrieved by registration may sue in Civil Court.

6. Any person aggrieved by the Collector's refusal to register may sue in a Civil Court for a decree declaring that such separate registration ought to be made.

Persons aggrieved by refusal to register may sue in Civil Court.

7. Any person aggrieved by the apportionment of the assessment under section 2 of this Act may appeal to the Board of Revenue within ninety days from the date of the declaration of such assessment; and the order of the Board of Revenue shall be final.

Persons aggrieved by assessment may appeal to Revenue Board.

8. The Governor in Council may at any time, if it appears that there has been fraud or material error in the apportionment of such separate assessment, cause the same to be re-adjusted.

Power to re-adjust assessment.

9. [Regulation I of 1819 repealed.] Rep. by the Repealing and Amending Act, 1901 (XI of 1901).

<sup>1</sup> For definition of "Collector," see s. 2 of Mad. Act II of 1914 *infra*.

<sup>2</sup> P. *intd supra*.

<sup>3</sup> The words and figures "subject to the sanction laid down in section 48 of that Act were repealed by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

MADRAS ACT No. VII OF 1878.<sup>1</sup>

[THE MADRAS MUNICIPAL POLICE ACT, 1878.]

[16th April, 1878; 7th September, 1878.]

An Act to provide for the payment, from Municipal Funds, of a portion of the cost of the Police Force employed in the City of Madras and in all Municipal Towns within the Presidency of Fort St. George.

**Preamble.** WHEREAS it is expedient that a portion of the cost of the Police employed in the City of Madras, and in every town brought under the operation of the Towns' Improvement Act, 1871<sup>2</sup> (Madras), shall be defrayed from municipal funds; It is hereby enacted as follows:— Mad. Act III of 1871.

**Commencement of Act.** 1. This Act shall come into force on the first day of April, 1879.  
2. [Repeal of section 2 of Act V of 1871.] Rep. by the Repealing and Amending Act, 1901 (XI of 1901).

**Municipal contribution towards maintenance of Police in City of Madras.** 3. The Municipal Commissioners for the City of Madras shall annually set apart, and pay to the Government in equal monthly instalments, out of the funds raised under the Madras Municipal Act, 1867,<sup>3</sup> or any other corresponding law for the time being in force,<sup>4</sup> such sum not exceeding fifty per centum of the total cost of the Police-force, other than the Marine Police, employed by Government in the said City, as may be annually fixed by the Government.

**Municipal contribution towards maintenance of Police in Mufassal towns.** 4. In every town in which the Towns' Improvement Act, 1871,<sup>2</sup> (Madras), or any other corresponding law for the time being in force,<sup>5</sup> is in operation, the Municipal Commissioners for such town shall annually set apart, and pay to the Government in equal monthly instalments out of the funds raised under the said Act or law, such sum not exceeding seventy-five per centum of the total cost of the Police-force employed in such town as may be annually fixed by the Government.

**Sums payable under Act when and to whom to be paid.** 5. All sums payable under this Act shall be paid by the Municipal Commissioners for such city or town as aforesaid at such times and to such persons as the Government may from time to time direct.

**Commissioner of Police to furnish the Madras Municipality annually with statements of sums received and expended, and** 6. The Commissioner of Police for the City of Madras shall, on or before the first day of August in each year, furnish to the Municipal Commissioners for the City of Madras, a statement of all sums received and expended by him

<sup>1</sup> Short title, "The Madras Municipal Police Act, 1878" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, see Fort St. George Gazette, 1878, Supplement, 27th March, p. 1; for Report of the Select Committee, see *ibid*, Supplement, dated 9th April, 1878, p. 1; for Proceedings in Council, see *ibid*, Supplement, dated 9th April, 1878, p. 68, *ibid*, Supplement, dated 24th April, 1878, p. 75.

<sup>2</sup> See now the Madras District Municipalities Act, 1884 (Mad. Act IV of 1884), by which this Act has been repealed. Printed *infra*.

<sup>3</sup> The Act was repealed by Mad. Act V of 1878—see now Mad. Act III of 1904 *infra*.

<sup>4</sup> See Mad. Act III of 1904 *infra*.

<sup>5</sup> See now Mad. Act IV of 1884 *infra*.

in the past official year in respect of the Police-force, other than the Marine Police, employed in the said City, and a statement or estimate showing the probable expenditure to be incurred in the ensuing official year in respect of the said Police-force.

of estimated probable expenditure, on account of the City Police.

Every District Superintendent of Police shall, at such periods as the Governor in Council may from time to time direct, furnish to the Municipal Commissioners of every town in his district in which the Towns' Improvement Act, 1871<sup>1</sup> (Madras), or any other corresponding law for the time being in force, is in operation, statements containing similar information to that mentioned in the preceding paragraph, in respect of the Police-force employed in every such town.

District Superintendents of Police to furnish similar statements to Mufassal Municipalities in respect of Police in towns.

### MADRAS ACT No. VIII OF 1878.<sup>2</sup>

[THE MADRAS COFFEE-STEALING PREVENTION ACT, 1878.]

[30th August, 1878 ; 28th September, 1878.]

#### An Act to prevent Thefts of Coffee.

WHEREAS it is expedient to make special provision to prevent thefts of coffee, and to repress and punish the offence of receiving or disposing of stolen coffee in the neighbourhood of coffee plantations or estates ; It is enacted as follows :—

Preamble.

1. This Act may be called the Madras Coffee-stealing Prevention Act, Short title. 1878.

2. This Act shall take effect in such districts, divisions or parts of districts, or within such localities or limits within the Presidency of Fort St. George, and from such date as the Governor in Council may from time to time direct by notification published in the official Gazette.<sup>3</sup>

Commencement and local extent of Act.

The Governor in Council may from time to time modify or cancel such direction by notification similarly published.

Power to modify or annul notification. Interpretation.

#### 3. In this Act—

“labourer” means and includes all persons except resident managers temporarily or permanently employed on a coffee-estate in any capacity, whether agricultural, menial or otherwise howsoever :

“Labourer.”

“carrier” means and includes all persons for the time being employed in the transport of coffee, whether by portage, pack-animals, boat, cart or otherwise, and whether as contractors, drivers or otherwise.

“Carrier.”

<sup>1</sup> See now Mad. Act IV of 1884 *infra*.

<sup>2</sup> For Statement of Objects and Reasons, see Fort St. George Gazette, Supplement, dated 28th January, 1878, p. 3 ; for Report of the Select Committee, see *ibid.*, Supplement, dated 13th August, 1878, p. 3 ; for Proceedings in Council, see *ibid.*, Supplement, dated 12th February, 1878, p. 27 ; *ibid.*, Supplement, dated 13th August, 1878, p. 100 ; *ibid.*, Supplement, dated 20th August, 1878, p. 101.

<sup>3</sup> For places to which the Act has been extended from time to time under this section, see Madras List of Local Rules and Orders, Ed. 1912, Vol. II, pp. 5, 6, and Fort St. George Gazette, 1896, Pt. I, p. 86.

"Coffee-estate."  
"Coffee."

"coffee-estate" means and includes any land on which coffee is growing :

"coffee" means and includes all coffee not roasted or otherwise prepared for immediate consumption.

Coffee not to be taken from labourer.  
Coffee not to be taken from other than labourer, unless particulars entered in book.

4. It shall not be lawful for any one to purchase, take in barter or exchange, or receive coffee from any labourer employed on a coffee-estate.

5. It shall not be lawful for any one to purchase, take in barter or exchange, or receive coffee from any person other than a labourer employed on a coffee-estate, unless the person so purchasing, taking in barter or exchange, or receiving such coffee shall immediately thereupon enter or cause to be entered in a book to be kept by him for that purpose a true record of such transaction, specifying—

- (a) the name, residence and occupation of the person from whom such coffee was so purchased, taken in barter or exchange, or received ;
- (b) the date of the transaction ; and
- (c) the quantity and description of the coffee so purchased, taken in barter or exchange, or received :

Section not to apply to coffee taken for *bond fide* personal consumption.

Provided that this section shall not apply to coffee purchased, taken in barter or exchange or received from any person other than a labourer employed on a coffee-estate, and intended *bond fide* for consumption in the house or on the premises of the person purchasing, taking in barter or exchange, or receiving the same as aforesaid.

Person in charge of coffee-estate to maintain a book of his transactions.

5A. Every person in charge of a coffee-estate, whether he be owner thereof or not, who sells, gives in barter or exchange, or delivers any coffee, shall immediately thereupon enter or cause to be entered in a book to be kept by him for that purpose a true record of such transaction specifying—

- (a) the name, residence and occupation of the person to whom such coffee was so sold, given in barter or exchange, or delivered ;
- (b) the date of the transaction ; and
- (c) the quantity and description of the coffee so sold, given in barter or exchange, or delivered.

Books to be produced on police-officer's requisition.

6. All books required <sup>2</sup> [to be kept] by <sup>2</sup> [sections 5 and 5A] \* \* \* \*<sup>2</sup> shall be produced upon the requisition of any police-officer not below the rank of an officer in charge of a police-station, generally or specially authorized by any Magistrate to require the production of such books.

Conditions under which coffee may be taken from a carrier.

7. It shall not be lawful for any one to purchase or take in barter or exchange coffee from any carrier, or for any carrier to sell or give in barter or exchange any coffee, unless the person so purchasing or taking in barter or

<sup>1</sup> This section was inserted by s. 3 of the Madras Coffee-stealing Prevention Act Amendment Act, 1900 (Mad. Act II of 1900), *infra*.

<sup>2</sup> Those words were inserted, the words "sections 5 and 5A" were substituted for the words "section 5," and the words "to be kept by persons purchasing coffee" repealed in s. 6 by s. 4 of Mad. Act II of 1900.



exchange such coffee shall, besides making the entry required by section 5 of this Act, also enter or cause to be entered in the book mentioned in the said section 5 the marks (if any) on the bags or other packages in which such coffee may be contained, and unless the entries required by this section and by the said section 5 be also correctly signed by such carrier in his own name, and attested by a police-officer or the headman of the village within which the transaction takes place; for which attestation no fee shall be chargeable.

8. Any person committing any breach of the provisions contained in section 4, 5, [5A,] 6 or 7 of this Act shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Penalty for breach of section 4, 5A, 6 or 7.

9. Any cooly, maistry or other labourer employed on a coffee-estate found with green gathered <sup>2</sup>[parchment or cherry-dried] coffee in his possession, and failing to account satisfactorily for such possession, shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Penalty in case of labourer being found in possession of green coffee for which he cannot account.

10. No person shall carry or remove coffee from any coffee-estate, premises or place, or upon any road, highway or footway, without the express permission of the owner or of his authorized agent.

Coffee not to be carried without permission of owner or agent.

Such permission shall be in writing, dated and signed by the said owner or his authorized agent, and shall contain the following particulars:—

Permission to be in writing, etc.

- (a) the quantity of the coffee to be carried or removed;
- (b) the number, description and marks of the packages in which coffee is secured;
- (c) the place or destination to which the coffee is to be carried or removed; and
- (d) the names of the consignor and consignee.

Any person committing any breach of the provisions of this section shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees.

Penalty for breach of this section.

11. No coffee shall be gathered, moved, loaded or unloaded on any coffee-estate between sunset and sunrise.

Hours of gathering or removing coffee.

XIV of 1860.

Any person committing a breach of this provision, or abetting (within the meaning of the Indian Penal Code)<sup>3</sup> such breach, shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees:

Penalty for breach of above provision.

Provided that nothing in section 10 or in this section shall apply to the ordinary operations of curing the crop on the estate, such as pulping or storing.

Section 10 and this section not to apply to ordinary operations of curing.

<sup>1</sup> The letter and figure "5A" were inserted by Mad. Act II of 1900, s. 5.

<sup>2</sup> These words were inserted by Mad. Act II of 1900, s. 6.

<sup>3</sup> See ss. 107 and 108 of the Indian Penal Code, printed, General Acts, Vol. I.

Procedure if gathering, etc., was done to commit theft.

Substituted or additional punishment for second offence under section 9.

Proviso.

Fines to be paid into public treasury. Magistrate may grant rewards to informers.

Duties of a person in charge of coffee-estate.

Power to make rules.

**12.** If it shall appear that such gathering, moving, loading or unloading was for the purpose of committing a theft, the person or persons so engaged shall be liable to be charged with theft, or abetment of theft, and be proceeded against for such offence under the provisions of sections 378 and 379 or sections 107, 108 and 109 of the Indian Penal Code,<sup>1</sup> as the case may be.

**13.** It shall be at the discretion of the Magistrate, in the case of any persons, not being females, who shall be convicted of a second offence under section 9 of this Act, to substitute \* \*<sup>2</sup> corporal punishment under the provisions of Act No. VI of 1864<sup>3</sup> (*an Act to authorise the punishment of whipping in certain cases*), or of any other law for the time being in force in that behalf for \* \*<sup>2</sup> the penalties provided by this Act : XIV of 1860.

Provided that such substituted \* \*<sup>2</sup> punishment shall be awarded only in respect of the offence itself, and not as an alternative penalty for non-payment of fine.

**14.** All fines paid or levied under this Act shall be paid into the public treasury :

Provided that the Magistrate trying any case under this Act may <sup>4</sup>[for reasons to be recorded in writing] grant the whole or any portion of any fine levied therein as rewards to persons furnishing such information as may have led to the conviction of offenders under this Act.

**15.** It shall be the duty of every person in charge of a coffee-estate whether he be owner thereof or not, to keep such books and to furnish such returns in connection with the coffee-estate or the coffee grown thereon at such times and to such authorities as may be prescribed by the Governor of Fort St. George in Council, and to afford to such officers as may be generally or specially designated in that behalf by the Collector all reasonable facilities for verifying the correctness of such books and returns, and for obtaining such other information as may be required for the preparation in public offices of such statistics as the Governor of Fort St. George in Council may prescribe.

**16.** The Governor of Fort St. George in Council may after previous publication make rules—

(a) prescribing forms for the books, returns and statistics referred to in section 15 ;

(b) regulating the time at which and the authority to whom such returns are to be furnished ;

(c) regulating the inspection and examination of such books, returns and statistics ; and

(d) generally for carrying out the purposes of this Act ;

and all such rules shall be published in the Fort St. George Gazette and shall thereupon have the force of law.

<sup>1</sup> General Acts, Vol. I.

<sup>2</sup> The words "or add." the words "or to" and the words "or additional" were respectively repealed by Mad. Act II of 1900, s. 7 *infra*.

<sup>3</sup> See now Act IV of 1909, General Acts, Vol. VI.

<sup>4</sup> These words were inserted by Mad. Act II of 1900, s. 8 *infra*.

<sup>5</sup> Sections 15, 16 and 17 were added by Mad. Act II of 1900, s. 9 *infra*.

1878: Mad. Act VIII.] *Coffee-stealing Prevention.*

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1879: Mad. Act I.] *Cattle-disease.*

1879: Mad. Act II.] *Nilgiris Game and Fish Preservation.*

17. Any person failing without reasonable excuse to comply with the provisions of section 15 of this Act shall be liable on conviction by a Magistrate to pay a fine not exceeding one hundred rupees.

Penalty for failure to comply with the provisions of section 15.

MADRAS ACT No. I OF 1879.<sup>2</sup>

[THE MADRAS CATTLE-DISEASE (AMENDMENT) ACT, 1879.]

[6th February 1879 ; 22nd March, 1879.]

An Act to amend Madras Act II of 1866<sup>3</sup> (the Cattle-disease Prevention Act).

WHEREAS it is expedient to amend Madras Act II of 1866<sup>3</sup> (*An Act for the prevention of the spread of disease among cattle in the Madras Presidency*), in order to give full effect to its provisions within the limits of the City of Madras as defined in Madras Act V of 1878,<sup>4</sup> by conferring upon the President of the Municipal Commission for the City of Madras the powers given by the said Act to the Magistrate of the district ; It is enacted as follows :—

1. Sections 3, 7, 8, 10, 12, 14 and 15 of Madras Act II of 1866<sup>3</sup> shall be read as if they contained the following words after the words “ the Magistrate of the district ” : “ or, in the City of Madras, the President of the Municipal Commission.”

“ President, Municipal Commission, Madras.” to be read after “ the District Magistrate.” Act to be read as part of Act II of 1866.

2. This Act shall be read with, and taken as part of, Act II of 1866.

MADRAS ACT No. II OF 1879.<sup>5</sup>

[THE NILGIRIS GAME AND FISH PRESERVATION ACT, 1879.]

[12th February, 1879 ; 24th March, 1879.]

An Act to provide for the protection of Game and Acclimatised Fish in the District of the Nilgiris in the Madras Presidency.

Preamble.

WHEREAS it is expedient to provide for the protection of wild animals and

<sup>1</sup> This section was added by Mad. Act II of 1900, s. 9 *infra*.

<sup>2</sup> Short title. “ The Madras Cattle-disease (Amendment) Act, 1879 ” was given by the Repealing and Amending Act, 1901 (XI) of 1901).

For Statement of Objects and Reasons, see Fort St. George Gazette, 1879, Supplement, dated the 21st January, 1879, p. 1 ; for Proceedings in Council, see *ibid*, Supplement, dated the 4th February, 1879, p. 4.

The Act came into force on the 25th April, 1879, by Notification, dated 26th April, 1879 — see Fort St. George Gazette, 1879, Pt. I, p. 325.

<sup>3</sup> Printed *supra*.

<sup>4</sup> Rep. by Mad. Act I of 1884 which has in turn been repealed by Mad. Act III of 1904 *infra*.

<sup>5</sup> For Statement of Objects and Reasons, see Fort St. George Gazette, 1878, Supplement, dated the 2nd April, 1878, p. 2 ; for Report of the Select Committee, see *ibid*, Supplement, dated the 25th June, 1878 ; and for Proceedings in Council, see *ibid*, Supplement, dated the 24th April, 1878, p. 82, and *ibid*, dated the 25th June, 1878, and *ibid*, dated the 4th February, 1879, p. 3.

The Act has been supplemented by Act IV of 1897

birds used for food and of acclimatised fish, and to prohibit the killing, capturing and selling game and acclimatised fish in the district known as the Nilgiris, as described in the Schedule hereto appended, under certain conditions; It is hereby enacted as follows:—

Title and local extent.

1. This Act may be called the Nilgiris Game and Fish Preservation Act, 1879; and it shall come into operation in the district aforesaid, or such parts thereof, and from such dates as the Governor in Council may from time to time declare by notification in the Fort St. George Gazette.

Interpretation-clause—  
"Game."

2. In this Act the word "game" shall include bison, sambhur, ibex, jungle-sheep, deer of all descriptions, hares, jungle-fowl, pea-fowl, partridge, quail, and spur-fowl, or such birds or animals as the Governor in Council may deem fit to specify by notification from time to time in the Fort St. George Gazette.<sup>1</sup>

Power to fix close season.

3. The Governor in Council may, by notification in the Fort St. George Gazette,<sup>2</sup> from time to time, fix a season or seasons of the year during which it shall not be lawful for any person to shoot at, kill, capture, pursue or sell, or attempt to kill, capture or sell game, as may be specified in such notification within the district aforesaid:

Proviso as to private lands.

Provided that nothing in this Act contained shall preclude proprietors or occupiers of land from adopting such measures on such land as may be necessary for the protection of crops or produce growing thereon.

Protection of animal, bird or fish not indigenous.

4. Whenever any animal, bird or fish useful for food not indigenous to the district aforesaid, is introduced into it with the approval of the Government with a view to becoming acclimatised or being propagated therein, it shall be lawful for the Governor in Council from time to time, by notification in the Fort St. George Gazette, to prohibit altogether, or to regulate in such manner and for such period not exceeding three years as may be declared in such notification, the pursuit, killing or capture of such animal, bird or fish.

Power to prescribe rules for the regulation and control of fishing.

5. It shall be lawful for the Governor in Council, by notification in the Fort St. George Gazette,<sup>3</sup> from time to time to make rules for the regulation and control of fishing in any stream or lake within the said district; and such rules may, with the view to protect acclimatised fish which may be believed to be there or may be hereafter introduced therein, prohibit or regulate the poisoning of the waters of any stream or lake, the throwing of any deleterious matter therein, the use of fixed engines for the capture of fish in any stream, and the use of nets of a mesh below a certain size to be defined in such rules for the capture of fish in such stream or lake.

Power of Government officer or police.

6. Any Government officer or servant or policeman producing his certificate of office, or wearing the prescribed distinctive dress or badge of his department, may require any person whom he finds committing any offence

<sup>1</sup> For additions to this list, see Madras List of Local Rules and Orders, Ed. 1912, Vol. II, p. 6.

<sup>2</sup> For instance of a notification of this nature, see *ibid.*, p. 6.

<sup>3</sup> For notifications under this section, see Madras List of Local Rules and Orders, Ed. 1912, Vol. II, p. 6.

against section 3, 4 or 5 of this Act to give his name and address, or, if there is reason to doubt the accuracy of the name and address so given, to accompany him to the nearest police-station.

7. Every person convicted before a Magistrate of any offence against section 3, 4 or 5 of this Act shall be liable for a first offence to a penalty not exceeding rupees fifty and to the forfeiture to Government, at the discretion of the Magistrate, of the game, birds or fishes taken, and of all guns, engines, implements, nets and dogs used in or for the purpose of aiding the commission of such offence, and, in default of payment of fine, to simple imprisonment for a period not exceeding one month, and for every second and subsequent offence, to a penalty not exceeding rupees one hundred and the same liability to forfeiture, and in default of payment to simple imprisonment for a period not exceeding two months.

Penalties for shooting, etc., during close season and for breach of fishing rules.

8. The provisions of the Code of Criminal Procedure<sup>1</sup> relating to the summoning and examination of persons accused and witnesses and to the levying of penalties shall be applied to proceedings under this Act.

Procedure under this Act.

9. All fees, fines and forfeitures realised under this Act shall be paid into the public treasury.

Appropriation of fees, fines, etc. Award to informer.

But it shall be competent to the convicting Magistrate to award such portion of the fine or of the proceeds of the forfeiture as he may think fit, not exceeding one-half the amount of full fine authorized to be imposed by this Act in any case under this Act, to the person or persons on whose information the conviction is obtained.

#### SCHEDULE REFERRED TO IN THE PREAMBLE.

The Nilgiri District shall for the purpose of this Act be held to be bounded by—

The north bank of the Bhavani River from Attipadi in the Attipadi Valley to the junction of the Mayar River.

The west and south banks of the Mayar River from its junction with the Bhavani to the point in the Mudumullah District nearest to Gudalur.

A line carried thence to the head of the Pandy River (Oucherlony Valley).

The east bank of the Pandy River to where it falls near the Karkur Pass into Malabar Payenghaut.

A line along the south crest of the Oucherlony Valley and across the western slopes of the Nilgiri and Mukurti Peaks and Sisapara Ranges to Wallaghaut.

A line thence along the west crest of the Silent Valley (Malabar) Range.

N.B.—The district shall include the entire tract known as the Silent Valley.

A line from the south end of the above-named range to the Bhavani River at Attipadi in the valley of the same name.

<sup>1</sup> S. now Act V of 1898, General Acts, Vol. V.

MADRAS ACT No. 5 OF 1879.<sup>1</sup>[*The Madras Abkari Laws Amendment Act, 1879.*]MADRAS ACT No. I OF 1881.<sup>2</sup>

[THE MADRAS PORTS POLICE ACT, 1881.]

[29th January, 1881; 12th March, 1881.]

An Act to provide for the maintenance of a special Police-force in the Ports of the Presidency of Fort St. George.

Preamble.

WHEREAS it is expedient to make special provision for the security of the traffic between the shore and shipping in the ports of the Presidency of Fort St. George and to make the said traffic contribute towards the cost thereof; It is enacted as follows :—

Short title.  
Scope of  
Act.

1. This Act may be called the Madras Ports Police Act, 1881.

It shall take effect in such port or ports in the Presidency of Fort St. George and from such date as the Governor in Council may from time to time direct by notification<sup>3</sup> in the Fort St. George Gazette.

Additional  
charge on  
the hire of  
boats carry-  
ing goods.

2. To meet the expense of the police-force, established under the provisions of Act XXIV of 1859<sup>4</sup> (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*) and Madras Act VIII of 1867<sup>5</sup> (*an Act to incorporate the Police of the Town of Madras with the General Police of the Madras Presidency, etc.*), which may be necessary for the purpose of this Act, the Governor in Council may, from time to time, by notification in the Fort St. George Gazette, fix such sum as may suffice at each port on an annual estimate to cover the cost of such special force to be charged and taken by the owner of every boat employed to convey goods to or from any ship or vessel in any port in the Presidency of Fort St. George in which this Act may take effect, in addition to the hire payable under Act IV of 1842<sup>6</sup> (*for the better management of boats and catamarans in the Madras Roads and for the amendment of certain Harbour Regulations*) or under Act IX of 1846<sup>6</sup> (*an Act for authorizing the Government of Fort St. George to provide Regulations for the several ports and places of anchorage within the territories subject thereto*) or under any Act that may be hereafter enacted for the like purpose.

<sup>1</sup> This Act which was repealed locally by Madras Act I of 1886 is still in force in the Bhadrachalam and Rakapillalagu of the Godavari district and in certain portions of the Agency tracts.

<sup>2</sup> For Statement of Objects and Reasons, see Fort St. George Gazette, Supplement, dated 6th July, 1880, p. 3; for Report of the Select Committee, see *ibid*, 7th December, 1880, p. 1; for Proceedings in Council, see Supplement, dated 27th July, 1880, p. 3, *ibid*, Supplement, dated 25th January, 1881, p. 2.

<sup>3</sup> No such notification has yet been issued.

<sup>4</sup> The Madras District Police Act, 1859 *supra*.

<sup>5</sup> See now the Madras City Police Act, 1888 (Mad. Act III of 1888), *infra*.

<sup>6</sup> Rep. by the Madras Repealing and Amending Act, 1893 (Mad. Act I of 1893), itself repealed by Act XI of 1901.

3. No goods of any description shall be conveyed in any boat to or from any ship or vessel in any port in which this Act may take effect unless an officer of the Police-force is present on board such boat; and it shall be the duty of the Commissioner or Superintendent of Police to provide every such boat with an officer of the Police-force for such purpose.

No goods to be conveyed unless boat be accompanied by a Police-officer.

4. The owner of every boat and the tindal and boatmen for the time being employed in any boat in which any goods shall with the connivance of such boat-owner, tindal or boatmen be conveyed to or from any ship or vessel in any port in which this Act may take effect without having an officer of the Police-force on board of such boat, shall, on conviction before a Magistrate, be liable as follows:—

Penalties for omission to carry Police-officer.

- every boat-owner to a fine not exceeding fifty rupees;
- every tindal to a fine not exceeding twenty rupees;
- every boatman to a fine not exceeding five rupees.

5. Every boat-owner, tindal or boatman of any boat who shall hinder any such officer from proceeding on board such boat or shall obstruct him in the performance of his duty when in any such boat, shall, on conviction before a Magistrate, be liable as follows:—

Penalties for obstruction or hindrance to Police-officer.

- every boat-owner to a fine not exceeding one hundred rupees;
- every tindal to a fine not exceeding thirty rupees or to corporal punishment not exceeding fifty lashes with a cat-o'-nine tails;
- every boatman to a fine not exceeding fifteen rupees or to corporal punishment not exceeding thirty lashes with a cat-o'-nine tails.

6. Every boat-owner shall on every Monday make or cause to be made—

Owner to make weekly return of trips.

- to the Commissioner of Police, or
- to the Superintendent of Police, or
- to such other person as the said Commissioner or Superintendent of Police shall appoint to receive the same, or
- to the Port-officer of any port in which this Act may take effect, if such Port officer shall be appointed to such duty by the Governor in Council,

a return in writing, signed by such boat-owner or his agent, of the number of trips made by each of his boats on each day during the preceding week.

7. Every boat-owner who shall neglect to make the return required by section 6 shall, on conviction before a Magistrate, be liable for a first offence to a fine not exceeding fifty rupees, and for a second or any subsequent offence to a fine not exceeding one hundred rupees;

Penalty for neglecting to make return and for making false return.

and every boat-owner who shall knowingly make a false return shall be liable to a fine not exceeding three hundred rupees and to forfeiture of all licenses which he may hold under the provisions of Act IV of 1842<sup>1</sup> or IX of 1846.<sup>1</sup>

<sup>1</sup> Rep. by the Madras Repealing and Amending Act, 1893 (Mad. Act I of 1893).

Boat-owner to pay to the Commissioner or Superintendent of Police the sums charged under this Act.

**8.** Every boat-owner shall on every Monday pay or cause to be paid—to the said Commissioner of Police, or to the Superintendent of Police, or to such other person as the said Commissioner or Superintendent of Police shall appoint to receive the same, or to the Port-officer of any port in which this Act may take effect, if such Port-officer shall be appointed to such duty by the Governor in Council, the regulated sum as provided under section 2 for every trip made by any boat belonging to him employed in conveying goods, according to the weekly return made by him as hereinbefore directed ;

Procedure on default.

and, in default of such payment, one or more of the boats of any boat-owner making such default may be seized and sold by virtue of a warrant under the hand and seal of a Magistrate until the amount so due by such boat-owner and the expenses of sale shall be realized ; and such amount when realized shall be forthwith paid to the said Commissioner or Superintendent of Police or other officer appointed as aforesaid. Any surplus arising from such sale shall, provided application be made within three months from the date of such sale, be paid to such boat-owner.

Monies received under this Act to be paid into the public treasury.

**9.** All moneys paid to or received by the said Commissioner or Superintendent of Police, or other officer as aforesaid under this Act, shall be paid by such officer at least once a month into the public treasury.

Act not to apply to boats conveying only mails.

**10.** This Act shall not apply to any boat which shall convey mails exclusively to or from any ship or vessel in any port in which this Act may take effect.

Powers of Police-officers under the Act.

**11.** From and after the passing of this Act, it shall be lawful for all Police-officers appointed under Act XXIV of 1859<sup>1</sup> or Madras Act VIII of 1867<sup>2</sup> to exercise within the limits of any port in which this Act may take effect all powers given to them by the said Acts, respectively.

Code of Criminal Procedure and Presidency Magistrates Act to apply to punishments.

**12.** The provisions of the Code of Criminal Procedure,<sup>3</sup> and the Presidency Magistrates Act<sup>4</sup> shall apply to all fines and punishments awarded under this Act.

Power to apply Act to passenger boats.

**13.** The Governor in Council may from time to time, by notification in the Fort St. George Gazette, apply the provisions of this Act to boats conveying passengers to or from any vessel in all or any ports in which this Act shall take effect under section 1.

<sup>1</sup> Printed *supra*.

<sup>2</sup> See now the Madras City Police Act, 1888 (Mad. Act III of 1888), *infra*.

<sup>3</sup> See now Act V of 1898, General Acts, Vol. V.

<sup>4</sup> Act IV of 1877, with the exception of s. 57, which relates to the fees payable for summons or warrants issued by Presidency Magistrates, was repealed by Act X of 1882.



**1881: Mad. Act I.]**

*Ports Police.*

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**1882: Mad. Act V.]**

*Forests.*

**14.** It shall be competent to the Governor in Council of Fort St. George to withdraw from the operation of this Act, by notification in the official Gazette, any port or ports in which this Act may take effect.

Government  
may with-  
draw ports  
from opera-  
tion of Act.

**15.** [*Repeal of enactment.*] *Rep. by the Repealing and Amending Act, 1901 (XI of 1901).*

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## THE MADRAS FOREST ACT, 1882.

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46. Procedure as to perishable property seized under section 41.
47. Appeal from orders under section 43, 44 or 45.
48. Property when to vest in Government.
49. Saving of power to release property seized.
50. Penalty for counterfeiting or defacing marks on trees and timber, and for altering boundary-marks.
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MADRAS ACT No. V. OF 1882.<sup>1</sup>

## [THE MADRAS FOREST ACT, 1882.]

[17th September, 1882; 11th October, 1882.]

## An Act to make provision for the Protection and Management of Forests in the Presidency of Madras.

## Preamble.

WHEREAS it is expedient to make provision for the protection and management of forests in the Presidency of Madras; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

## Short title.

1. This Act may be called the Madras Forest Act, 1882.

## Local extent.

It extends to all territories for the time being subject to the Government of Fort St. George, except the scheduled districts : Provided that the Governor

<sup>1</sup> For Statement of Objects and Reasons, see Fort St. George Gazette, Extraordinary, dated 6th July, 1882, p. 17; for Report of the Select Committee, see *ibid*, dated 19th August, 1882, p. 1; for Proceedings in Council, see *ibid*, Supplement, 11th July, 1882, p. 6, *ibid*, 12th September, 1882, p. 9.

This Act was brought into force on the 1st January, 1883—see Fort St George Gazette 1882, Pt. I, p. 788.

Doubts as to the legality of certain portions of this Act were removed by Act XXI of 1882 *supra*.

The Act was extended to the taluqs of Bhadrachalam and Rakapilli in the Godavari District by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874)—see Gazette of India, 1885, Pt. I, p. 660.

It has also been extended under the same power to the Rampa Country and to the Ducharti and Guditeru Muttas in the Goleonda Hills, in the Godavari District—see Fort St. George Gazette, 1894, Pt. I, p. 566; to the Kottam Ram and Konda Muttas of the scheduled taluq of Palkonda in the Vizagapatam District—see Fort St. George Gazette, 1890, Pt. I, p. 780. It has further been extended to the Pandakkol Mutta, situated in the Sureda Malialis, one of the scheduled districts in Ganjam—see Gazette of India, 1895, Pt. I, p. 620. It has also been extended to the scheduled districts in Ganjam in which it had not already been made applicable—see *ibid*, Pt. I, p. 924.

in Council may, by notification in the Fort St. George Gazette, exempt any place from the operation of the whole or any portion of this Act, but not so as to affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced in such place before such exemption, and may in like manner vary or cancel such notification ;

and it shall come into force on such day as the Governor in Council may Commence-  
ment. by notification in the Fort St. George Gazette direct.

2. In this Act, and in all rules made hereunder, unless there is something Interpreta-  
tion-clause. repugnant in the subject or context,—

“Government” means the Governor of Fort St. George in Council :

“ Govern-  
ment.”  
“ Collector.”

“Collector” means the chief executive Revenue-officer of a district :

“Forest-officer” means any person appointed by name or as holding an office by or under the orders of the Government to be a Conservator, Deputy Conservator, Assistant Conservator, Sub-Assistant Conservator, Forest-ranger, Forester, Forest-guard ;

“ Forest-  
officer.”

or to discharge any function of a Forest-officer under this Act or any rule made hereunder :

“District-Forest-officer” means the chief Forest-officer of a district or of a portion of a district, if in independent charge of such portion :

“ District-  
Forest-  
officer :”

“tree” includes stumps, bamboos and brushwood :

“ Tree :”

“timber” includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not :

“ Timber :”

“forest-produce” includes the following things when found in, or brought from, a forest (that is to say):—

“ Forest-pro-  
duce :”

minerals (including limestone and laterite), surface-soil, trees, timber, plants, grass, peat, canes, creepers, reeds, fibres, leaves, moss, flowers, fruits, seeds, roots, galls, spices, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac, charcoal, honey and wax, skins, tusks, bones and horns :

“forest-offence” means an offence punishable under this Act or any rule made hereunder.

“ Forest-  
offence :”

“cattle” includes elephants, camels, buffaloes, horses, mares, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids :

“ Cattle :”

“river” includes streams, canals, creeks and other channels, natural or artificial :

“ River :”

“land at the disposal of Government” includes all unoccupied land, whether assessed or unassessed ; but does not include land the property of land-holders as defined by section 1 of Act VIII of 1865, Madras (namely), all persons holding under a sanad-i-milkíyat-i-istimrâr, all other zamíndárs, shrotriyamíndárs, jágírdárs, inámíndárs and all persons farming lands from the above persons or farming the land-revenue under Government : also all holders of land under raiyatwár settlements, or in any way subject to the

“ Land at  
the disposal  
of Govern-  
ment :”

<sup>1</sup> See now Madras Act I of 1908.

payment of land-revenue direct to Government, and all other registered holders of land in proprietary right :

“Magistrate”

“Magistrate” means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by Government to try forest-offences :

“Imprisonment”

“imprisonment” means imprisonment of either description as defined in the Indian Penal Code.<sup>1</sup>

XLV of 1860.

## CHAPTER II.

### RESERVED FORESTS.

Power to reserve forests.

**3.** The Governor in Council may constitute any land at the disposal of Government a reserved forest in the manner hereinafter provided.

Notification by the Governor in Council.

**4.** Whenever it is proposed to constitute any land a reserved forest, the Governor in Council shall publish a notification in the Fort St. George Gazette and in the official Gazette of the district—

- (a) specifying, as nearly as possible, the situation and limits of such land ;
- (b) declaring that it is proposed to constitute such land a reserved forest ;
- (c) appointing an officer (hereinafter called the Forest-settlement-officer) to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, or to any forest-produce of such land, and to deal with the same as provided in this Chapter.

The officer appointed under clause (c) of this section shall ordinarily be a person other than a Forest-officer ; but a Forest-officer may be appointed by the Governor in Council to attend on behalf of Government at the inquiry prescribed by this Chapter.

Suits barred.

**5.** Except as hereinafter provided, no Civil Court shall, between the dates of the publication of the notification under section 4 and of the notification to be issued under section 16, entertain any suit to establish any right in or over any land, or to the forest-produce of any land, included in the notification published under section 4.

Proclamation by Forest-settlement-officer.

**6.** When a notification has been issued under section 4, the Forest-settlement-officer shall publish in the official Gazette of the district, and at the head-quarters of each taluq in which any portion of the land included in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

- (a) specifying, as nearly as possible, the situation and limits of the land proposed to be included within the reserved forest ;

<sup>1</sup> General Acts, Vol. I.

- (b) setting forth the substance of the provisions of section 7
- (c) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and
- (d) fixing a period not less than three months from the date of publishing such proclamation in the official Gazette of the district and requiring every person claiming any right referred to in section 4 either to present to such officer, within such period, a written notice specifying, or to appear before him within such period and state, the nature of such right, and in either case to produce all documents in support thereof.

The Forest-settlement-officer shall also serve a notice to the same effect on every known or reputed owner or occupier of any land included in or adjoining the land proposed to be constituted a reserved forest, or on his recognized agent or manager. Such notice may be sent by registered post to persons residing beyond the limits of the district in which such land is situate.

7. During the interval between the publication of such proclamation and the date fixed by the notification under section 16, Bar of accrual of forest-rights.

no right shall be acquired in or over the land included in such proclamation, except under a grant or contract in writing made or entered into by, or on behalf of, the Government, or by, or on behalf of, some person in whom such right, or power to create the same, was vested when the proclamation was published, or by succession from such person,

and no fresh clearings for cultivation or for any other purpose shall be made on such land. Prohibition of clearings, etc.

No pattā shall, without the previous sanction of the <sup>1</sup>[Board of Revenue], be granted on behalf of Government in such land, and every pattā granted without such sanction shall be null and void.

Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-settlement-officer.

8. The Forest-settlement-officer shall take down in writing all statements made under section 6, and shall inquire into all claims made under that section, recording the evidence in the manner prescribed by the Code<sup>2</sup> of Civil Procedure in appealable cases. Inquiry by Forest-settlement-officer.

The Forest-settlement-officer shall at the same time consider and record any objection which the Forest-officer (if any) appointed under section 4 may make to any such claim.

9. For the purpose of such inquiry the Forest-settlement-officer may exercise the following powers (that is to say):— Powers of Forest-settlement-officer.

- (a) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and

<sup>1</sup> These words were substituted for the words "Governor in Council" by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

<sup>2</sup> See now Act V of 1908, General Acts, Vol. VI.

(b) the powers conferred on a Civil Court by the Code<sup>1</sup> of Civil Procedure for compelling the attendance of witnesses and the production of documents.

Claims to  
rights of  
occupancy  
and owner-  
ship.

**10.** In the case of a claim to a right in or over any land other than the following rights :—

- (a) a right of way;
- (b) a right to a water-course, or to use of water;
- (c) a right of pasture, or
- (d) a right to forest-produce;

the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

Admitted  
claims.

i. If such claim is admitted wholly or in part, the Forest-settlement-officer may (1) come to an agreement with the claimant for the surrender of the right; or (2) exclude the land from the limits of the proposed forests; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.<sup>2</sup>

For the purpose of so acquiring such land—

- (i) the Forest-settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870<sup>2</sup>;
- (ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;
- (iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and
- (iv) the Forest-settlement-officer with the consent of the claimant, or the Court (as defined in the said Act) with the consent of the claimant and of the Collector of the district, may award compensation by the grant of rights in or over land, or by the payment of money, or both.

Rejected  
claims—  
Appeals.

ii. If such claim is rejected wholly or in part, the claimant may, within thirty days from the date of the order, prefer an appeal to the District Court in respect of such rejection only: Provided that the Governor in Council may, on just and reasonable cause for the same being shown, extend the period for such appeal within such further period as may seem proper, and an order or endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the said Court to entertain such appeal beyond the limit above specified. If the Court decides that the claim or such part thereof as has been rejected should be admitted, the Forest-settlement-officer shall proceed to deal with it in like manner as if it had been in the first instance admitted by himself.

<sup>1</sup> See now Act V of 1908, General Acts, Vol. VI.

<sup>2</sup> See now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.



iii. When a claim has been admitted in the first instance wholly or in part, a like appeal may be preferred on behalf of Government by the Forest-officer appointed under section 4, or other person generally or specially empowered by the Government in this behalf.

**11.** In the case of a claim to rights of the kind specified in clauses (a), (b), (c) and (d) of section 10, the Forest-settlement-officer shall pass an order specifying the particulars of such claim as far as may be necessary to define the nature, incidents and extent of the rights claimed, and admitting or rejecting such claim wholly or in part.

Claims to rights of way, water-course, pasture, and to forest-produce.

When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or buildings, he shall record the designation, position and area of such land, and the designation and position of such buildings.

Where the right is a right to forest-produce, he shall also record whether the forest-produce obtained by the exercise of such right may be sold or bartered.

**12.** When the Forest-settlement-officer has admitted wholly or in part, and recorded under section 11, a claim to a right of pasture or to forest-produce, he shall, as far as possible, provide for the exercise of such right —

Provision for rights of pasture or to forest-produce admitted.

- (a) by altering the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimant ;
- (b) by recording an order continuing to the claimant a right of pasture or to forest-produce (as the case may be), subject to such rules as may be prescribed by the Governor in Council.

The order passed under clause (b) shall record, as far as practicable, the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the seasons during which, such pasture is permitted ; or

the quantity of timber or other forest-produce which the claimant is authorized to take or receive, the local limits within which, the season during which, and the mode in which, the taking of such produce is permitted ; and

such other particulars as may be required in order to define the extent of the right which is continued, and the mode in which it may be exercised.

**13.** Whenever any right of pasture or to forest-produce admitted under section 11 is not provided for in one of the ways prescribed in section 12, the Forest-settlement-officer shall, subject to such rules as the Government may prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of rights in or over land or in such other manner as such officer thinks fit.

Commutation of such rights.

**14.** The claimant, or the Forest-officer appointed under section 4, or any other person generally or specially empowered by the Government in this behalf, may, within sixty days from the date of any order passed by the

Appeal from order passed under sections 11, 12 and 13.

Forest-settlement-officer under sections 11, 12 and 13, present an appeal from such order—

to a Forest Court constituted as hereinafter provided, or,

where no such Court is constituted, to such officer of the Revenue Department of not less than twelve years' standing as the Governor in Council may, from time to time, by notification in the Fort St. George Gazette, appoint, by name or as holding an office, to hear appeals from such orders.

In disposing of such appeals the Revenue-officer appointed as aforesaid shall be guided by the provisions of sections 39 and 40 of this Act.

Appeal under  
section 14.

**15.** Every appeal under section 14 shall be made by petition in writing, and may be delivered to the Forest-settlement-officer, who shall forward it without delay to the appellate authority.

Notification  
declaring  
forest re-  
served.

**16.** When the following events have occurred, namely :—

- (a) the period fixed under section 6 for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest-settlement-officer; and
- (b) if such claims have been made, the period fixed by sections 10 and 14 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate authority; and
- (c) all proceedings prescribed by section 10 have been taken, and all lands (if any) to be included in the proposed forest, which the Forest-settlement-officer has, under section 10, elected to acquire under the Land Acquisition Act, 1870,<sup>1</sup> have become vested in the Government under section 16 of that Act;

the Governor in Council may publish a notification<sup>2</sup> in the Fort St. George Gazette, specifying the limits of the forest which it is intended to reserve, and declaring the same to be reserved<sup>2</sup> from a date to be fixed by such notification.

The Forest-settlement-officer shall, before the date so fixed, publish such notification in the manner prescribed for the proclamation under section 6.

From the date so fixed, such forest shall be deemed to be a reserved forest.

Extinction  
of rights not  
claimed.

**17.** Rights in respect of which no claim has been preferred under section 6 shall thereupon be extinguished, unless, before the publication of such notification, the person claiming them has satisfied the Forest-settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6; in which case the Forest-settlement-officer shall proceed to dispose of the claim in the manner hereinbefore provided.

No right  
acquired  
over re-  
served forest  
except  
as here  
provided.

**18.** No right of any description shall be acquired in or over a reserved forest, except under a grant or contract in writing made by or on behalf of

<sup>1</sup> See now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

<sup>2</sup> For instances of notifications under this section, see Madras List of Local Rules and Orders, Ed. 1912, Vol. II, pp. 10 *et seq*. These notifications are subject to constant change.

the Government, or by or on behalf of some person in whom such right, or the power to create such right, was vested when the notification under section 16 was published or by succession from such person :

Provided that no pattá shall without the previous sanction of the <sup>1</sup>[Board of Revenue] be granted on behalf of Government for any land included within a reserved forest, and every pattá granted without such sanction shall be null and void.

**19.** Notwithstanding anything herein contained, no right continued under section 12 shall be alienated by way of grant, sale, lease, mortgage or otherwise without the sanction of the Government : Provided that, when any such right is continued for the beneficial enjoyment of any land or buildings, it may be sold or otherwise alienated with such land or buildings without such sanction. Any alienation of such right in contravention of this section shall be null and void.

Rights continued under section 12 not to be alienated without sanction.

No forest-produce obtained in exercise of any right continued under section 12 shall be sold or bartered except to the extent defined by the order recorded under sections 11 and 12.

Any person selling or bartering any forest-produce in contravention of this section shall be punished with fine which may extend to two hundred rupees.

**20.** The District-forest-officer may, from time to time, with the previous sanction of the Government, stop any public or private way or water-course in a reserved forest : Provided that a reasonably convenient substitute for the way or water-course so stopped already exists, or has been provided or constructed in lieu thereof.

Power to stop ways and water-courses in reserved forest.

**21.** Any person who—

- (a) makes any fresh clearing prohibited by section 7 ; or
- (b) sets fire to a reserved forest, or kindles, or leaves burning, any fire in such manner as to endanger the same ;

or who, in a reserved forest,—

- (c) kindles, keeps or carries any fire except at such season and in such manner as the District-forest-officer may from time to time notify ;
- (d) trespasses, or pastures cattle, or permits cattle to trespass ;
- (e) fells, girdles, marks, lops, taps, uproots or burns any tree, or strips off the bark or leaves from, or otherwise damages, the same ;
- (f) quarries stone, burns lime or charcoal, or collects, subject to any manufacturing process, or removes any forest-produce ;
- (g) clears, cultivates or breaks up any land for cultivation or any other purpose ; or,
- (h) in contravention of any rules <sup>2</sup> made by the Governor in Council, hunts, shoots, fishes, poisons water or sets traps or snares ;

Penalties for trespass or damage in reserved forests, and acts prohibited in such forests.

<sup>1</sup> These words were substituted for the words " Governor in Council " by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

<sup>2</sup> For such rules, see Fort St. George Gazette, 1896, Pt. I, pp. 1092-1094 ; *ibid*, 1899, Pt. I, p. 566.

(i) damages, alters or removes any wall, ditch, embankment, fence, hedge or railing ;

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

Acts  
exempted  
from  
prohibition  
contained in  
this section.

Nothing in this section shall be deemed to prohibit—

- (a) any act done in accordance with any rule made by the Government or with the permission in writing of the District-forest-officer, or of an officer authorised by him to grant such permission; or
- (b) the exercise of any right continued under section 12 or created by grant or contract in the manner described in section 18 ;

Provided that this section shall not be held to interfere with such working of the forest as may be ordered by the District-forest-officer.

Suspension  
of rights in  
reserved  
forests.

**22.** Whenever fire is caused wilfully or negligently in a reserved forest, the Government may (notwithstanding that a penalty has been inflicted under section 21) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

Persons  
bound to  
assist Forest-  
officer and  
Police-  
officer.

**23.** Every person who exercises any right in a reserved forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest ; and

every person who is employed by any such person in such forest ; and

every village-officer or person in any village contiguous to such forest who is employed by the Government ;

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-station-house-officer any information he may possess respecting the occurrence of a fire in or near such forest, or the commission of, or intention to commit, any forest-offence ; and shall assist any Forest-officer or Police-officer demanding his aid—

- (a) in extinguishing any fire occurring in such forest ;
- (b) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest ;
- (c) in preventing the commission in such forest of any forest-offence ; and,
- (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Power to  
declare  
forest  
no longer  
reserved.

**24.** The Government may, <sup>1</sup>[subject to the control of the Governor General in Council], by notification <sup>2</sup> in the Fort St. George Gazette, direct that, from a date to be fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be reserved.

<sup>1</sup> These words were substituted for the words "with the previous sanction of the Governor General in Council" by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

<sup>2</sup> Several notifications under this power have been issued, but they are so numerous and liable to such frequent change that it is unnecessary to note them here.

From the date so fixed such forest or portion shall cease to be reserved ; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

**25.** The Government may, by notification<sup>1</sup> in the Fort St. George Gazette, declare any forest which has been reserved by order of the Government previous to the day on which this Act comes into force to be a reserved forest under this Act : Forests reserved previous to the passing of this Act.

Provided that if the rights of the Government or of private persons to or over any land or forest-produce in such forest have not been inquired into, settled and recorded in a manner which the Government thinks sufficient, the same shall be inquired into, settled and recorded in the manner provided by this Act for reserved forests, before the date on which the notification declaring the forest to be reserved takes effect.

All questions decided, orders issued and records prepared in connection with the reservation of such forest shall be deemed to have been decided, issued and prepared hereunder, and the provisions of this Act relating to reserved forests shall apply to such forest.

### CHAPTER III.

#### PROTECTION OF LAND AT THE DISPOSAL OF GOVERNMENT NOT INCLUDED IN RESERVED FORESTS.

**26.** Subject to all rights now legally vested in individuals and communities, the Governor in Council may for any district or portion of a district make rules<sup>2</sup> to regulate the use of the pasturage or of the natural produce of land at the disposal of Government and not included in a reserved forest. Such rules may, with respect to such land,— Power to make rules.

- (a) regulate or prohibit the clearing or breaking up of land for cultivation or other purposes ;
- (b) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires ;
- (c) regulate or prohibit the cutting, sawing, conversion and removal of trees and timber, and the collection and removal of natural produce ;
- (d) regulate or prohibit the quarrying of stone, the boiling of catechu, or the burning of lime or charcoal ;
- <sup>3</sup>(e) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments (if any) to be made for such cutting or pasturing ;

<sup>1</sup> Notifications under this section are too numerous and subject to so much alteration as to make reference here to them unnecessary.

<sup>2</sup> For rules, see *Madras List of Local Rules and Orders*, Ed. 1912, Pt. II, p. 239.

<sup>3</sup> For rules made under clause (e) for the Rampa Country in the Coimbatore District, see *Fort St. George Gazette*, 1889, Pt. I, p. 644.

- <sup>1</sup>(f) regulate or prohibit hunting, shooting, fishing, poisoning water and setting traps or snares ;
- (g) regulate the sale or free grant of timber or other natural produce ; and
- (h) prescribe the fees, royalties or other payments for such timber or other natural produce, and the manner in which such fees, royalties or other payments shall be levied.

Penalties for acts in contravention of rules.

The Governor in Council may by such rules prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to one month, or fine which may extend to two hundred rupees, or both :

Provided that the Governor in Council may exempt any person or class of persons from the operation of all or any of such rules.

Power to close land against pasture. \*

**27.** Whenever fire is caused wilfully or negligently in any land to which all or any of the rules made under section 26 have been extended, the Government may, notwithstanding that a penalty has been inflicted under that section, direct that such land be closed against pasture for such period as it thinks fit :

Provided that an area sufficient in extent and in a locality reasonably convenient is left open for the use of persons having rights of pasture in such land.

Penalties.

**28.** Whoever pastures cattle or permits cattle to trespass in land closed under section 27 shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

#### CHAPTER IV.

OF THE CONTROL OVER FORESTS AND LANDS NOT AT THE DISPOSAL OF GOVERNMENT OR IN WHICH GOVERNMENT HAS A LIMITED INTEREST.

On certain lands, the breaking up or clearing for cultivation, etc., may be regulated or prohibited.

**29.** The Governor in Council may from time to time, by notification in the Fort St. George Gazette and in the official Gazettes of the districts affected thereby, regulate or prohibit in any forest or waste-land not at the disposal of Government—

- (a) the breaking up or clearing of land for cultivation ;
- (b) the pasturing of cattle ;
- (c) the firing or clearing of the vegetation ;

when such regulation or prohibition appears to be necessary for any of the following purposes :—

*first*, for protection against storms, winds, rolling stones, floods and avalanches ;

<sup>1</sup> For rules under clause (f) see Madras List of Local Rules and Orders, Ed. 1912, Vol II, p. 243.

*second*, for the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against erosion, or the deposit thereon of sand, stones or gravel;

*third*, for the maintenance of a water-supply in springs, rivers and tanks;

*fourth*, for the protection of roads, bridges, railways and other lines of communication;

*fifth*, for the preservation of the public health;

and may alter or cancel such notification.

The Government may, for any such purpose, construct at their own expense, in or upon any such forest or land, such works as they think fit:

Provided that no such notification shall be made or work begun until after the issue of a notice to the owner of such forest or land calling upon him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same have been heard by an officer duly appointed in that behalf, and have been considered by the Government.

**30.** Whenever the owner of such forest or land may decline to comply with the regulations or directions contained in the said notification, it shall be incumbent upon the Government, if they resolve to assume control of the said forest or land, to take the said forest or land, or so much of it as they may see fit, on lease from the owner for such term as they may deem it necessary to retain the same under control, and the owner shall be bound either to conclude such lease with the Government or to require that such forest or land shall be acquired for public purposes, and in the latter event the Government shall acquire such forest or land accordingly. If such lease is agreed upon, the amount of annual rent to be reserved, and all other questions arising between the owner or persons claiming to be owners and the Government, shall, in case of dispute, be determined in accordance, so far as may be, with the provisions of the Land Acquisition Act, 1870.<sup>1</sup>

In case of refusal by owner, Government may take such lands on lease or acquire them.

X of 1870.

**31.** In any case under this Chapter in which the Government consider that, in lieu of taking the forest or land under its control, the same should be acquired for public purposes, the Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.<sup>1</sup>

Acquisition of forest or land under the Land Acquisition Act.

X of 1870.

**32.** The owner of any land or, if there be more than one owner thereof, the owners of shares therein, whether divided or not, amounting in the aggregate to at least two-thirds thereof, may, with a view to the formation or conservation of forests thereon represent in writing to the Collector their desire—

Protection of forests at request of owners.

(a) that such land be managed on their behalf by the District-forest-officer, as a reserved forest, on such terms as may be agreed upon;

or

<sup>1</sup> See now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol IV.

- (b) that such land be managed, subject to the control of the Collector, by a person appointed by themselves and approved by the Collector; or
- (c) that all or any of the provisions of this Act or rules made thereunder be applied to such land.

The Government may in any such case, by notification in the Fort St. George Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such notification may be altered or cancelled by a like notification.

Management of forests the joint property of Government and other persons.

**33.** If the Government and any person or persons are jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Government may either—

- (a) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or
- (b) issue such regulations for the management of the forest, waste-land or produce by the persons so jointly interested, as it deems necessary for the management thereof and the interests of all parties therein.

When the Government undertakes, under clause (a) of this section, the management of any forest, waste-land or produce, it may, by notification in the Fort St. George Gazette and in the official Gazette of the district, declare that any of the provisions contained in Chapters II and III of this Act shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

Persons employed to carry out the Act to be deemed Forest-officers.

**34.** All persons employed under sections 30, 32 and 33 to carry out the provisions of this Act shall be deemed to be Forest-officers within the meaning of this Act.

## CHAPTER V.

### CONTROL OF TIMBER IN TRANSIT.

Power to make rules to regulate transit of timber.

**35.** The Governor in Council may make rules<sup>1</sup> to regulate the transit of all timber or of certain classes of timber within local limits as may appear to be necessary. Such rules may (among other matters)—

- (a) prescribe the routes by which alone timber may be imported into and exported from the Presidency of Madras;

<sup>1</sup> For rules under this section and s. 36, see Madras List of Local Rules and Orders, Ed. 1912, Vol. II, pp. 248, 249; see also Fort St. George Gazette, 1899, Pt. I, p. 717; *ibid*, 1904, Pt. I, p. 645.



- (b) prohibit the import and export or moving within defined local limits of timber without a pass from the land-holder from whose lands it was brought, or from an officer duly authorized to issue the same or otherwise than in accordance with the conditions of such pass ;
- (c) prescribe the form of such passes and provide for their issue, production and return ;
- (d) provide for the stoppage, reporting, examination and marking of timber in transit within defined local limits or at stations established as hereinafter provided ;
- (e) establish, or authorize the Collector to establish, stations to which such timber shall be taken by those in charge of it for examination or marking ; and the conditions under which such timber shall be brought to, stored at, and removed from such station ;
- (f) provide for the management and control of such stations, and for regulating the appointment and duties of persons employed thereat ;
- (g) authorize the transport of timber, the property of Government, across any land, and provide for the payment of compensation for any damage done by the transport of such timber ;
- (h) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be closed or obstructed ;
- (i) provide for the prevention and removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person, or by the sale of any timber, causing such obstruction ;
- (j) provide for the protection of bridges, locks or other public works, by regulating the floating of timber, and the storing of timber on river banks, and by authorizing the seizure of timber floated or stored in contravention of such rules or by which any damage to such works may have been caused, and the detention and disposal of such timber until compensation has been made for the damage done ;
- (k) regulate the use of property-marks for timber and the registration of such marks ; declare the circumstances in which the registration of any property-marks may be refused or cancelled ; prescribe the time for which such registration shall hold good ; limit the number of such marks that may be registered by any one person ; and provide for the levy of fees for such registration.

Penalties for  
breach of  
rules made  
under  
section 35.

**36.** The Government may, by such rules,<sup>1</sup> prescribe as penalties for the infringement thereof imprisonment for a term which may extend to one month, or fine which may extend to two hundred rupees, or both.

In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.

## CHAPTER VI.

### THE FOREST COURT.

Appointment  
and constitution  
of the  
Forest-  
Court.

**37.** Where no revenue-officer has been appointed to hear appeals under section 14, the Governor in Council shall, from time to time, as occasion may arise, appoint a Forest Court to hear such appeals. The Court shall consist of three members, of whom—

one shall be the Judge of the Court of any district in which any portion of the land, the rights in or over which are in dispute, is situated, or the officer presiding in the principal Civil Court of original jurisdiction of such district, another shall be the Collector of any such district, or an officer of the Revenue Department of not less than twelve years' standing,

and the third member shall be a person specially selected by the Governor in Council, not holding an office of profit in the service of the Government.

The Judge  
appointed to  
be the  
President.

**38.** The Judge appointed a member as aforesaid shall be the President of the said Court, and shall make all such orders in the case as may be necessary prior to the hearing of the appeal.

The official members of the Court may be appointed by name or as holding an office.

Hearing of  
appeals.

**39.** For the hearing of appeals the Forest Court shall fix a day and a convenient place in the neighbourhood of the land regarding which, or regarding rights over which, a dispute exists, and shall give notice thereof to the parties.

All cases before the Forest Court shall be heard and disposed of, so far as may be, in accordance with the provisions of the <sup>2</sup> Code of Civil Procedure :

Provided that if, on the hearing of any such case, any question of law or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise on which the Court shall entertain reasonable doubts, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court.

<sup>1</sup> See footnote to s. 35.

<sup>2</sup> See now Act V of 1908, General Acts, Vol. VI.

And it shall be the duty of the Forest Court to make such reference to the High Court if the question involve any principle of general importance or affect the rights of a class.

**40.** At the conclusion of the inquiry, and after receipt of the order of the High Court (which shall be binding upon the Forest Court) upon the reference (if any) prescribed by the preceding section, the Forest Court shall proceed to pass such order in the case as it may consider just and proper; and the order passed by the said Court or by the majority of the members of the said Court shall be final.

Court to pass order which shall be final.

## CHAPTER VII.

### PENALTIES AND PROCEDURE.

**41.** When there is reason to believe that a forest-offence has been committed in respect of any timber or forest-produce, such timber or produce, together with all tools, ropes, chains, boats, carts and cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

Seizure of property liable to confiscation.

Every officer seizing any property under this section shall place on such property, or the receptacle (if any) in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Report to Magistrate.

Provided that, when the timber or forest-produce with respect to which such offence is believed to have been committed is the property of Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

**42.** Upon the receipt of any such report the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Procedure thereupon.

**43.** When any person is convicted of a forest-offence, all timber or forest-produce in respect of which such offence has been committed, and all tools, ropes, chains, boats, carts and cattle used in committing such offence, shall be liable, by order of the convicting Magistrate, to confiscation.

Timber, forest-produce, tools, etc., when liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

**44.** When the trial of any forest-offence is concluded, any timber or forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken possession of by or under the authority of the District-forest-officer; and in any other case may be disposed of in such manner as the Court may order.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

**45.** When the offender is not known or cannot be found, the Magistrate, if he is of opinion that an offence has been committed, may, on application in

Procedure when offender is not known

or cannot be found.

this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possession of by or under the authority of the District-forest-officer, or to be made over to any person whom the Magistrate considers to be entitled to the same :

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

The Magistrate shall cause a notice of any application under this section to be served upon any person whom he has reason to believe is interested in the property seized, or shall publish such notice in any way which he thinks fit.

Procedure as to perishable property seized under section 41.

**46.** The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 41 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold.

Appeal from orders under section 43, 44 or 45.

**47.** Any person claiming to be interested in property seized under section 41 may, within one month from the date of any order passed under section 43, 44 or 45, present an appeal therefrom which may be disposed of in the manner provided by section 419, Code of Criminal Procedure.<sup>1</sup>

Property when to vest in Government.

**48.** When an order for the confiscation of any property has been passed under section 43 or 45, and the period limited by section 47 for presenting an appeal from such order has elapsed, and no such appeal has been presented, or when on such an appeal being presented the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized.

**49.** Nothing hereinbefore contained shall be deemed to prevent the District-forest-officer from directing at any time the immediate release of any property seized under section 41 and the withdrawal of any charge made in respect of such property.

Penalty for counterfeiting or defacing marks on trees and timber, and for altering boundary-marks.

**50.** Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,<sup>2</sup>—

XLV of 1880.

- (a) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person ; or
- (b) unlawfully affixes to any timber or standing tree a mark used by Forest-officers ; or
- (c) alters, defaces or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest-officer ; or

<sup>1</sup> See now Act V of 1898, s. 520, printed, General Acts, Vol. V.

<sup>2</sup> Printed, General Acts, Vol. I.

(d) alters, moves, destroys or defaces any boundary-mark of any forest or any land to which any provisions of this Act apply ;

shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

**51.** Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence punishable with imprisonment for one month or upwards if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe he will abscond. Power to arrest without warrant.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested to the nearest police-station, and the officer in charge of such station shall thereupon act according to law.

**52.** Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, or who vexatiously and unnecessarily arrests any person, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both. Punishment for wrongful seizure or arrest.

**53.** Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence. Power to prevent commission of offence.

**54.** Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest-offence, or from being liable under such other law to any higher punishment or penalty than that provided by this Act or the rules made thereunder : Provided that no person shall be punished twice for the same offence. Operation of other laws not barred.

**55.** Any Forest-officer specially empowered in this behalf may accept from any person reasonably suspected of having committed any forest-offence other than an offence under section 50 or section 52 a sum of money by way of compensation for the offence which may have been committed, and, where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer. Power to compound offences.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

**56.** When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved. Presumption that timber or forest-produce belongs to Government.

## CHAPTER VIII.

## CATTLE-TRESPASS.

Cattle-trespass Act, 1871, to apply.

**57.** Cattle-trespassing in a reserved forest or on lands on which the grazing of cattle has been prohibited by rules made under section 26, or which has been closed under section 27, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871,<sup>1</sup> and may be seized and impounded as such by any Forest-officer or Police-officer.

Power to alter fines fixed by that Act.

**58.** The Governor in Council may, by notification<sup>2</sup> in the Fort St. George Gazette, direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied, in all or any of the areas to which this Act applies, for each head of cattle impounded under section 57 of this Act, such fines as he thinks fit, but not exceeding the following (that is to say):—

	Rs.	A.	P.
For each elephant . . . . .	10	0	0
For each buffalo or camel . . . . .	2	0	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow, calf or heifer . . . . .	1	0	0
For each ass, pig, ram, ewe, sheep, lamb, goat or kid . . . . .	6	8	0

## CHAPTER IX.

## FOREST-OFFICERS.

Governor in Council may invest Forest-officers with certain powers.

**59.** The Governor in Council may invest<sup>3</sup> any Forest-officer by name, or as holding an office, with the following powers (that is to say):—

- (a) the powers of a Settlement-officer under the Madras Boundaries Act,<sup>4</sup> No. XXVIII of 1860;
- (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;
- (c) power to hold inquiries into forest-offences, and in the course of such inquiries to receive and record evidence, and to issue search-warrants which may be executed in the manner provided by the Code of Criminal Procedure;
- (d) power to accept compensation for forest-offences under section 55; and may withdraw any powers so conferred.

<sup>1</sup> Printed. General Acts, Vol. II.

<sup>2</sup> For list of notifications under this section, see Madras List of Local Rules and Orders, Ed. 1912, Vol. II, pp. 250 *et seq.*

<sup>3</sup> For instance of such investment, see Fort St. George Gazette, 1897, Pt. I, p. 1546.

<sup>4</sup> See now the Madras Survey and Boundaries Act, 1897 (Mad. Act IV of 1897), *infra*.

<sup>5</sup> See now Act V of 1898, General Acts, Vol. V.

Any evidence recorded under clause (c) of this section shall be admissible in any subsequent trial before a Magistrate of the alleged offender: Provided that it has been taken in the presence of the accused person, and recorded in the manner provided by section 333, section 334 or section 335 of the Code of Criminal Procedure.<sup>1</sup>

60. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.<sup>2</sup>

Forest-officers deemed public servants. Indemnity for acts done in good faith.

61. No suit or criminal prosecution shall lie against any public servant for anything done or omitted in good faith under this Act.

62. Except with the permission in writing of the Governor in Council, no Forest-officer shall, as principal or agent, trade in timber or forest-produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest, whether in British or Foreign territory.

Forest-officers not to trade.

## CHAPTER X.

### MISCELLANEOUS.

63. The Governor in Council may make rules<sup>3</sup> consistent with this Act—

- (a) to declare by what Forest-officer or class of Forest-officers the powers or duties conferred or imposed by or under this Act on a Forest-officer shall be exercised or performed ;
- (b) to regulate the procedure of Forest-settlement-officers ;
- (c) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Act, or from the public treasury ;
- (d) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons ; and
- (e) generally to carry out the provisions of this Act.

Additional powers to make rules.

64. All rules made by the Governor in Council under this Act shall be published in the Fort St. George Gazette and in the official Gazettes of the districts affected thereby, and shall thereupon have the force of law. Such rules may be cancelled or varied by like notification.<sup>4</sup>

Rules when to have force of law.

<sup>1</sup> See now Act V of 1888, ss. 355, 356 and 357, General Acts, Vol. V.

<sup>2</sup> General Acts, Vol. I.

<sup>3</sup> For rules under this section, see Madras List of Local Rules and Orders, Ed. 1912, Vol. II, p. 259.

<sup>4</sup> For instance of notification making such variation, see Fort St. George Gazette, 1896, Pt. I, p. 906.

Powers of Government exercisable from time to time.

All powers conferred by this Act on the Government may be exercised from time to time as occasion requires.

Governor in Council may delegate powers.

**65.** It shall be lawful for the Governor in Council to delegate any of the powers conferred by sections 19, 20, 22, 27, 58 and 62 to the Board of Revenue, or to such other controlling Revenue-authority as the Government may from time to time appoint.

Recovery of money due to Government.

**66.** All money, other than fines, payable to the Government under this Act, or any rule made thereunder, or on account of timber or forest-produce, or of expenses incurred in the execution of this Act in respect of timber or forest-produce, and all compensation awarded to Government under this Act, may, if not paid when due, be recovered, under the law for the time being in force, as if it were an arrear of land-revenue.

Lien on forest-produce for such money.

**67.** When any such money is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce; and, if such amount be not paid when due, such produce may be taken possession of by or under the authority of the District-forest-officer, and may be retained until such amount has been paid, or such Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

Power to sell such produce.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act.

**68.** Whenever it appears to the Governor in Council that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870,<sup>1</sup> section 4.

#### ACT No. IV of 1883.<sup>2</sup>

[25th October, 1883; 10th December, 1883.]

*An Act to raise the pecuniary limits of the Civil Jurisdiction exercised by Village Munsifs under Madras Regulation IV of 1816.*

<sup>1</sup> See now the Land Acquisition Act, 1894 (E. of 1894), s. 6, General Acts, Vol. IV.

<sup>2</sup> This Act was extended to the Scheduled Districts of Bhadrachalam, and Rakapalli, and the Rampa Country as being part of M. d. R. g. IV of 1816—see Gazette of India, 1879, Pt. I, p. 6, and Fort. St. George Gazette, 1879, Pt. I, pp. 722 and 723, respectively.

The Act has been repealed, except as regards the Scheduled Districts, by the Madras Village Courts Act, 1889 (Mad. Act I of 1889), printed, *infra*.



MADRAS ACT No. III OF 1884.<sup>1</sup>

## THE MADRAS REVENUE RECOVERY (AMENDMENT) ACT, 1884.

[21st April, 1884 ; 27th June, 1884.]

WHEREAS it is expedient to amend Act II of 1864<sup>2</sup> of the Madras Code (*an Act to consolidate the Laws for the recovery of arrears of revenue in the Madras Presidency*); It is hereby enacted as follows:—

1. For section 38 of Act II of 1864<sup>2</sup> of the Madras Code (*an Act to con-* Amendment of section 38 of Act II of 1864.  
*solidate the Laws for the recovery of arrears of revenue in the Madras Presidency*), the following section shall be substituted:—

“38. [*Vide supra*, p. 353.]

2. This Act shall be read with, and taken as part of, Act II of 1864<sup>2</sup> of the Madras Code. Construction of Act.

## THE MADRAS DISTRICT MUNICIPALITIES ACT IV OF 1884.

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The Act came into force on 23rd September, 1884—*see* notification No. 169, Fort St. George Gazette, 1884, Pt. I, p. 586.

The Act has been declared in force in the Scheduled Districts in Ganjam and Vizagapatam by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874)—*see* Fort St. George Gazette, 1898, Pt. I, p. 666, and Gazette of India, 1898, Pt. I, p. 839.

<sup>2</sup> Printed, *supra*.

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(2) Rubbisa, etc., to belong to Municipal Council.  
(3) Governor in Council may exclude any sewer, etc.
- 25. (*Power to vest in a Municipal Council hospitals, schools, choultries, etc., not being private property, together with endowments appertaining thereto*) *Repealed.*
- 26. (1) Saving of Revenue Board's powers in regard to charitable endowments.  
(2) Power to transfer them to Municipal Council.
- 27. What shall constitute the Municipal Fund.
- 28. (1) Custody of Municipal Fund.  
(2) Mode of drawing on Municipal Fund.

## 3. MODE OF TRANSACTING BUSINESS.

- 29. (1) Municipal Council to keep an office and to meet at least once a month.  
(2) Chairman to convene meeting on requisition.  
(3) Notice of meeting and business to be issued.  
(4) Meetings to be public.
- 30. (1) Who to preside at meetings.  
(2) Decision by majority. Casting vote.  
(3) Interested Councillor not to vote.  
(4) Certain officers may address Council.

## SECTIONS.

- (5) Quorum.
- (6) Modification, etc., of resolutions.
- 31. (1) Minutes of Proceedings to be kept, and to be open for inspection.
- (2) Minutes to be sent to Divisional Officer for publication.
- (3) Certified copies of proceedings and records.
- 32. (1) The Chairman to carry out the resolutions of the Municipal Council.
- (2) Chairman to furnish progress reports.
- (3) Delegation of powers by Chairman to Vice-Chairman.
- (4) Delegation of powers by Chairman to a Municipal Councillor.
- (5) Exception.
- 32-A. Chairman's powers in emergencies.
- 33. Execution of resolution on neglect of Chairman.
- 34. (1) Control by Collector.
- (2) Delegation of powers of Collector to other public officers.
- 35. (1) Power to suspend action under Act.
- (2) Collector shall forward copy of order to Governor in Council and Municipal Council.
- 36. (1) Extraordinary powers of the Collector and the Revenue Officer in charge of a Division of a District in cases of emergency.
- (2) Expense may be recovered from Municipal Fund.
- (3) Report to be made to Governor in Council.
- 37. (1) Powers of Governor in Council in case of default, of Municipal Council or Chairman.
- (2) Governor in Council may appoint person to perform duty.
- (3) Expense may be recovered from Municipal Fund.
- 38. Rules as to conduct of business.

## 4. MUNICIPAL SERVANTS.

- 39. The Municipal Council to fix the number and salaries of their permanent servants with the sanction of the Governor in Council.
- 39-A. (1) Every Municipal Council may appoint a Secretary subject to approval of Governor in Council.
- (2) Certain Municipal Councils shall appoint a Secretary unless Governor in Council otherwise directs.
- (3) Duties and powers of Secretary.
- 40. (1) Government servants employed by Municipal Council.
- (2) Contribution by Government towards pay of Municipal servants.
- (3) Dismissal of Government servants employed by Councils.
- (4) Withdrawal of such servants.
- (5) Privileges of Government servants in Municipal employ.
- 41. Municipal servants, etc., are public servants under Indian Penal Code.

## SECTIONS.

42. (1) The Chairman to appoint servants subject to rules prescribed by the Governor in Council.  
(2) Appointment of temporary servants in cases of emergency.  
(3) The Chairman may punish servants.
43. Rules as to securities, pensions, etc.

## 5. MUNICIPAL CONTRACTS.

44. (1) Delegation of authority to contract.  
(2) Certain contracts to be sanctioned by the Municipal Council.  
(3) Contractual powers of persons appointed by Government.
45. (1) Mode of executing contracts.  
(2) Contract made otherwise not binding.
46. No Municipal Councillor to be personally liable for contracts.

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CHAPTER III.

## TAXES AND TOLLS, AND MODE OF REALIZING THEM.

47. Levy of taxes and tolls.  
Proviso as to levy of water and drainage tax.  
Proviso as to levy of tax on servants.
48. Municipal Council may raise funds from any of above sources.
49. Governor in Council may direct the levy of taxes, unless the Municipal Council show cause to the contrary, and may cancel or modify such direction.
50. Municipal Council to issue notification intimating that tax, etc., will be levied.  
Tax, etc., to be levied until cancellation of notification.
51. Council may exempt persons unable to pay.
52. (1) Chairman to maintain assessment books.  
(2) Council may direct Chairman to amend assessment books.  
(3) Appointment of Committee to scrutinize assessment books.
- 52-A. Assessment of taxes payable by Chairman.
- 52-B. Receipts to be given for all payments of taxes.

## 1. TAX ON ARTS, PROFESSIONS, TRADES AND CALLINGS.

53. Payment of profession-tax.  
Pensioners liable to tax.
54. (1) Chairman to decide class.  
(2) Chairman may revise.
55. Tax to be paid half-yearly.

## SECTIONS.

- 56. Notice of non-payment.
- 57. (*Chairman to grant receipt*) *Repealed.*
- 58. Every member of a firm or undivided Hindu family to be separately liable.
- 59. Persons coming under several designations, how assessed.
- 60. Extent of liability for profession-tax in more than one Municipality.
- 61. Power of Chairman to call on owners or occupiers for list of persons liable to tax on arts, etc.
- 62. Power of Chairman to call on employers, etc., for similar lists.

## 2. TAXES ON BUILDINGS AND LANDS.

- 63. (1) Taxes on buildings and lands. Exceptions.
- (2) Rates at which said taxes may be levied.
- (3) In certain cases rate may be fixed with reference to area.
- (4) In such cases no tax to be levied on huts.
- (5) Property valued at Rs. 6 a year and under exempted.
- 63-A. Levy of tax on buildings at rate calculated on area covered.
- 64. (1) Tax payable in half-yearly instalments.
- (2) Instalments when due.
- 65. (1) Annual value of buildings and lands how to be ascertained.
- (2) Value not to include furniture or machinery.
- 66. (1) Chairman to assess amounts payable and enter certain particulars in assessment books.
- (2) Periodical and occasional revision of assessment books.
- (3) Date from which assessments and revisions to have effect.
- 67. (*Present assessments to be taken as made under this Act*) *Repealed.*
- 68. Owner or occupier to be designated as such if name unknown.
- 69. Date on which revision petitions will be heard to be notified in certain cases.
- 69-A. (1) Special notice of date for hearing revision petitions to be given in certain cases.
- (2) Exception.
- 69-B. Petitions for revision on certain grounds may be made at any time.
- 69-C. Petitioners to have reasonable opportunity to represent case.
- 69-D. Disposal of revision petitions.
- 70. (*Persons to be allowed to inspect assessment books*) *Repealed.*
- 71. (*Amendment of assessment books*) *Repealed.*
- 72. Refund on account of vacant buildings.
- 73. (1) Notice to be given of buildings newly built or rebuilt. Procedure after receipt by Chairman of notice.
- (2) Remission or refund when building destroyed.
- 74. (*New assessment books need not be prepared every year*) *Repealed.*

## 3. WATER AND DRAINAGE TAX.

## SECTIONS.

75. (1) Levy of water and drainage tax.  
(2) Power to exempt any part of a Municipality from water and drainage tax.  
76. (*Water may be cut off on neglect to pay tax, and expense recovered*)  
*Repealed.*

## 4. TAX ON VEHICLES WITH SPRINGS, PALANQUINS AND ANIMALS.

77. (1) Tax on vehicles and animals.  
(2) Tax when due.  
(3) Exemption in certain cases.  
78. General exemptions.  
79. Chairman may compound with livery stable-keepers and others.  
80. Blank forms to be sent to persons liable to tax.  
81. Forms to be filled up and returned.  
82. If form not returned or payment not made, notice to pay to be served.  
83. On payment of tax, Chairman to give license.  
84. (1) Licensee bound to produce his license.  
(2) Penalty.

## 5. TAX ON CARTS AND OTHER VEHICLES WITHOUT SPRINGS.

85. (1) Tax on carts, etc.  
(2) Registry and numbering of carts, etc.  
(3) Registration half-yearly.  
(4) Exception.  
86. Person becoming intermediately possessed to register.  
86-A. No person bound to register unless he has possession for fifteen days.  
87. (*Register to be open to inspection*) *Repealed.*  
88. Effect of omitting to keep number affixed.  
89. Unregistered cart, etc., liable to seizure.  
90. Procedure after seizure of vehicle.

## 6. TOLLS ON VEHICLES AND ANIMALS ENTERING MUNICIPAL LIMITS.

91. (1) Tolls on vehicles and animals entering Municipal limits.  
(2) Chairman may compound with persons living outside Municipal limits.  
(3) No tolls to be levied in certain cases.  
92. (1) Toll-bars and farming of tolls.  
(2) Tolls where leviable.  
(3) Table of tolls to be exhibited.

## SECTIONS.

- 93. Penalty for evading tolls.
- 94. No more than one payment in twenty-four hours.
- 95. (1) In case of non-payment of toll, vehicle, etc., may be seized.  
(2) Notice of intended sale.
- 96. (1) Sale shall be stopped if payment tendered.  
(2) Sale-proceeds to discharge toll and expenses.

## 7. TAX ON SERVANTS.

- 96-A. Levy of tax on servants.
- 96-B. Tax when due.
- 96-C. Chairman may require secretaries of clubs, etc., to furnish lists of servants.
- 96-D. Refund of tax when claimable.
- 96-E. Governor in Council to decide what is a hill-station.

## 8. APPEALS.

- 97. (1) Appeals to the Municipal Council in respect of taxes.  
(2) Council may cancel Chairman's orders.
- 98. Form of appeal.
- 99. Limitation as to appeal.
- 100. Assessment books to be corrected in accordance with orders of Council.  
If tax decreased, refund to be made.
- 101. Assessment, etc., when to be final.

## 9. COLLECTION OF TAXES.

- 102. Before distraint, bill to be presented in certain cases.
- 103. (1) Recovery of sum due by distraint.  
(2) Prosecution in default of distraint.  
(3) Council may also sue.
- 104. Warrant for distraint.
- 105. Procedure in making distraint.
- 106. Conditions of distraint and sale. Exceptions. Limit.
- 107. (1) Sale of distrained property.  
(2) Sale of perishable article.  
(3) Objections to sale to be considered.
- 108. Distraint fees.
- 109. Property of defaulter, wherever found, may be distrained.
- 110. Occupier may be called on to pay for owner.  
Occupier not to be liable to prosecution or suit in such case.
- 111. Penalty on conviction before Magistrate.
- 112. (*Recovery of arrears of taxes, etc., due at commencement of this Act*)  
*Repealed.*



## CHAPTER IV.

PURPOSES TO WHICH THE FUNDS RAISED UNDER THIS ACT SHALL BE  
APPLIED.

## SECTIONS.

- 113. Purposes to which the funds raised under this Act may be applied.
- 114. Contribution by a Municipality to other Municipal or Local authorities.
- 115. Objects not provided for by this Act.
- 116. Exemption from this Chapter.

## 1. EDUCATION.

- 117. The Municipal Council to make provision for the public instruction of children.
- 118. (i) by maintaining schools.  
(ii) or by grants-in-aid.  
(iii) or by contributions.
- 119. And may maintain or aid schools where admission is free to a class or classes.
- 120. The Governor in Council may direct that aid be given to a school intended for a particular class.
- 121. The standard of public instruction to be provided by the Municipal Council.
- 122. (1) The Municipal Council shall levy fees in such schools, and may pay the fee for any child ; but shall not name the school to which the child shall go.  
(2) The proceeds of fees shall be spent on schools.
- 123. (*The Municipal Council may aid the construction of buildings for other schools*) *Repealed.*
- 124. The Council may provide for other educational matters.

## 2. MEDICAL RELIEF.

- 125. (1) Provision of hospitals and dispensaries.  
(2) Municipal Council not bound to provide, if sufficient provision already made.
- 126. Such hospital or dispensary to be supplied with medicines, etc.
- 127. (1) Persons other than paupers may obtain treatment.  
(2) Employment of Medical Officer.
- 128. Treatment of strangers.

## 3. VACCINATION.

- 129. Provision for vaccination.
- 130. Licensed vaccinator.

## SECTIONS.

131. (1) No fee to be charged for vaccination or for certificates by any public vaccinator.

But fee may be levied for visit to private house.

- (2) Vaccination of gosha females.

132. (1) Certificate of vaccination.

- (2) Certificate when child is insusceptible of vaccination.

(a) *Compulsory Vaccination.*

133. (1) Governor in Council may declare vaccination compulsory.

- (2) Municipal Council to proclaim that vaccination is compulsory.

134. Unprotected child to be vaccinated.

135. (1) Vaccinator to certify if child unfit.

- (2) Effect of such certificate.

Renewal of such certificate.

136. Vaccinator to vaccinate child, if fit.

137. (1) Inspection after vaccination.

- (2) Procedure when vaccination is successful.

- (3) Procedure when vaccination is unsuccessful.

- (4) Certificate of insusceptibility.

138. (1) Notice to parent or guardian of unprotected child, etc.

- (2) If notice is disobeyed, Magistrate may impose fine ;

- (3) or may direct compliance with notice before given date.

- (4) No penalty where animal lymph demanded but not available.

139. (*Provision as to person who does not appear in public*) *Repealed.*

(b) *Penalties.*

140. Penalty for signing a certificate by unauthorized vaccinator.

141. Penalty for signing a false certificate or refusing to grant certificate.

142. Prohibition of inoculation.

Inoculated persons not to enter any Municipality within given period without certificate.

Penalty for such entry.

## 4. WATER-SUPPLY.

143. (1) The Municipal Council to provide water-supply.

- (2) Public tanks, etc., to be under the control of the Municipal Council.

- (3) Governor in Council may limit such control.

144. (1) Construction of new works.

- (2) Maintenance of existing works for supply of water.

Works may be closed and others substituted.

145. Powers of the Municipal Council when constructing water-works without the Municipality.

## SECTIONS.

- 146. (1) Powers of Municipal Council in laying down pipes.  
(2) Notice to owner of private property and compensation for dealing with it.
- 147. (1) Supply of water for domestic purposes.  
(2) Supply of water for other than domestic purposes.  
(3) Payment of excess water.  
(4) Payment of expenses by owner or occupier.
- 148. (1) Power to enter premises.  
(2) If obstructed, or to prevent waste, Chairman may stop water.
- 149. Penalty for waste or misuse of water.
- 149-A. Chairman may cut off water in case of neglect to pay water-tax etc.
- 150. (1) Penalty for trespassing on channel land, etc.  
(2) Penalty for refusing to leave land, etc., trespassed upon.
- 151. (i) Damaging works.  
(ii) Diverting water.  
Penalty.

*(a) Fouling of Water.*

- 152. Water fouled by offensive trades. Penalty.
- 153. (1) Chairman may examine pipes.  
(2) If water fouled, expense of examination to fall on owners.  
(3) If water not fouled, expense to be paid by Municipal Council.
- 154. Council may set apart tanks, etc., for certain purposes.
- 155. Penalty for using tank, etc., so set apart, for purposes other than those intended.

*(b) Private Water-courses, Wells, etc.*

- 156. (1) Power to require private well, etc., to be cleansed,  
(2) or closed if unfit for use.

## 5. STREETS.

- 157. (1) Maintenance and repair of streets.  
(2) Foot-ways.
- 158. (1) Power to make and improve streets and close them, etc.  
(2) Power to take land adjoining new streets for building purposes.
- 159. Chairman may temporarily close any street.
- 160. Interference with public streets, etc.
- 161. (1) Private persons laying out new streets to give notice.  
(2) Notice to be accompanied by plan.  
(3) Subject to approval of the Municipal Council.  
(4) When applicant may proceed to make street.

## SECTIONS.

162. Paving, etc., of private streets.

163. (1) Such private street shall, on the requisition of the owners, be declared to be public street.

(2) Other private streets may be declared to be public streets.

164. Regular line of a street.

165. (1) When projecting buildings fall down, etc., the Chairman may acquire intervening land and require buildings to be set back, etc.

(2) Compensation to owners of such buildings.

(3) Lands so acquired to be part of the public street.

165-A. Buildings may be set forward for improving line of street.

166. (i) Owners and occupiers to construct culverts.

(ii) Troughs and pipes to be fixed to buiklings.

(iii) External walls to be kept in proper repair.

(a) *Projections and Obstructions.*

167. (1) Obstructions and bounding walls not to be made without permission.

(2) Owner or occupier to alter doors, etc., opening outwards.

168. (1) Removal of existing projections, etc.

(2) Notice of removal.

(3) Compensation when to be made.

169. (1) Owners and occupiers to apply for license to put up verandah, etc.

(2) Municipal Council may grant license.

170. Permissibility of temporary erections on occasions of festivals, etc.

171. License to be obtained and hoarding to be set up during repairs.

The same to be lighted during night.

172. (1) Precaution against accidents.

Bars to be erected across streets during repairs.

(2) To be lighted and guarded at night.

(3) Penalty for removing bar or light.

173. Holes and other obstructions in streets not to be made without Chairman's permission.

173-A. Débris of fallen houses, etc., to be removed by occupier.

(b) *Names of Streets.*

174. (1) Names of streets.

(2) Penalty for defacing, etc.

(c) *Watering and Lighting Streets.*

175. (1) Streets may be watered,

(2) and lighted.

(d) *Fences and Hedges.*

SECTIONS.

176. Power to call on owner or occupier to maintain fences, or trim hedges and trees.

6. BUILDINGS.

177. Power to erect buildings on vacant ground.

178. Power to erect or affix to buildings, brackets, etc.

179. Roofs and external walls of buildings not to be made of inflammable materials.

180. (1) Application to be made if well or building is to be constructed.

(2) What is to accompany such application.

(3) Orders to be passed in six weeks.

(4) Council may refuse to grant license unless certain conditions complied with.

(5) When applicant may proceed with work.

(6) Council may exempt huts from the provisions of this section and section 179.

181. Chairman may stop construction, etc., of building or well.

181-A. Prevention of crowding of huts.

181-B. Council may direct removal of hut built without permission.

(a) *Numbers on Houses.*

182. (1) Numbers on buildings.

(2) Penalty for defacing.

(b) *Ruinous or Deserted Buildings and Dangerous Places.*

183. (1) Chairman shall provide temporarily for safety of ruinous buildings, etc.

(2) Council may order owner or occupier of such building to take further steps.

184. Power to require owner to secure, enclose, etc., deserted buildings and lands.

185. Dangerous places to be repaired or enclosed.

185-A. Council may take action if no owner or occupier.

(c) *Unwholesome Buildings or Lands.*

186. (1) Council may direct cleansing and clearing of filthy buildings and lands.

(2) Council may require occupier of filthy buildings to limewash the same.

*(d) Removal of Buildings.*

## SECTIONS.

187. (1) Power of Municipal Council in case of over-crowded buildings, etc.  
 Notice to be affixed requiring owner or occupier to execute works, or take action.  
 (2) Municipal Council may, with sanction of Government, pull down buildings.  
 (3) Compensation to be made in respect of buildings pulled down.

## 7. OFFENSIVE AND DANGEROUS TRADES.

188. (1) If Council so direct, certain trades shall not be exercised without license.  
 (2) Licenses to be applied for thirty days in advance.  
 (3) Chairman may grant, refuse or cancel license.  
 (4) Licenses expire at end of year.  
 (5) When applicant may use place without license.  
 (6) Orders of Chairman subject to appeal.  
 189. Penalty for using place without license.

*(a) Provision of Cart-stands, etc.*

190. (1) Council may provide cart-stands, etc.  
 (2) If fee for use of cart-stands, etc., not paid, property may be seized.  
 (3) Table of fees to be put up.

## 8. SLAUGHTER-HOUSES, ETC.

191. (1) Municipal Council to provide slaughter-houses.  
 (2) Slaughter-houses and butchers' shops to be licensed.  
 (3) No animal to be slaughtered except in slaughter-house.  
 (4) or except during festivals.  
 192. Penalty for slaughtering except at a slaughter-house or drying skins so as to cause nuisance.  
 193. Government places exempted.

## 9. MARKETS.

- 193-A. Council may declare a place to be a market.

*(a) Public Markets.*

194. (1) Municipal Council may charge rents and fees for use of public markets.

SECTIONS.

- (2) Municipal Council may close public markets with sanction of Government.
- (3) Power to expel persons breaking regulations, and to determine lease.
- 195. Penalty for selling in public market without permission.

(b) *Private Markets.*

- 196. (1) Private markets to be licensed.
- (2) Applications for licenses to be made thirty days in advance.
- (3) Council may grant, refuse or cancel licenses.
- (4) Notice of grant, etc., of license to be posted up.
- (5) Licenses to expire at end of year.
- (6) When market may be used without license.
- 197. Penalty for selling in unlicensed private market.
- 198. (*Owner to apply for license yearly.*) *Repealed.*
- 199. (*Penalty where license has been refused.*) *Repealed.*
- 200. Private markets to be properly drained, etc.
- 201. (1) Penalty for default to drain, etc.
- (2) Penalty for not keeping private market properly, or for not abating nuisance, or for obstructing.
- 202. Power to close private market.

(c) *General.*

- 203. Municipal Council may prohibit sale in street.
- 204. (1) Chairman may enter and inspect places for sale or storage of articles of food or drink.
- (2) Such articles if unwholesome may be detained and produced before Magistrate.
- (3) Magistrate may order the same to be destroyed.
- (4) Magistrate may return articles if in good condition, and order compensation for loss, etc.
- 205. Inspection of weights and measures.
- 205-A. Certain persons may be expelled from market.

10. LATRINES, ETC.

- 206. (1) Latrines and urinals to be provided.
- (2) Licensing of public latrines.

(a) *Private Latrines, etc.*

- 207. (1) Latrines for private houses.
- (2) To be enclosed.

## SECTIONS.

208. Latrines, etc., for labourers.

209. Chairman may contract to construct drains, etc.

## 11. DRAINS, ETC.

210. (1) Drainage works to be constructed under the direction of the Municipal Council.

(2) Powers of Municipal Council in making public sewers.

(3) Notice to owner of private property, and compensation for injury thereto.

(4) Municipal Council may maintain, repair, alter or close sewers.

211. Public drains not to be altered without permission.

212. Buildings over sewers, etc., not to be erected without consent of the Municipal Council.

213. No drains, etc., to be made without permission.

213-A. Where general drainage system exists, Council may require, subject to certain provisos, that private persons shall construct drains.

213-B. Council may erect ventilating pipes.

214. (1) Branch drains, privies, etc., to be under control of Municipal Council and to be kept in order at cost of owners.

(2) Municipal Council may require owner to repair, etc., any drain or privy.

215. (1) When expense of inspection to be borne by owner.

(2) When such expense to be borne by Municipal Council.

## 12. GENERAL SANITARY REGULATIONS.

216. Council to arrange for the removal of night-soil, rubbish, etc.

217. (1) Council may order provision of night-soil receptacles.

(2) On failure to comply, Council shall provide at cost of occupier.

218. Cleansing of private latrines, etc.

219. Penalty for improper disposal of filth, etc.

220. Penalty for failure to deposit night-soil in receptacle.

221. Penalty for keeping night-soil, etc., on premises.

Magistrate may direct that culprit shall accept Municipal service.

222. Penalty for allowing outflow of offensive liquid.

223. Penalty for using any cart without cover in the removal of night-soil, etc.

224. Penalty for throwing rubbish, etc., into sewers or drains.

225. (*Nuisance by child.*) *Repealed.*

225-A. Penalty for feeding animal on deleterious substances, etc.

226. (1) Municipal Council may take steps to abate over-crowding of buildings.

(2) Penalty for neglect of Magistrate's order.



## SECTIONS.

227. Municipal Council to maintain certain wells, etc., in good order.
228. (1) Council may direct owners to cleanse or fill up tanks and wells,  
(2) and to drain off stagnant water.  
(3) Order may specify mode in which work to be done.
- 228-A. (1) Council may in certain cases prohibit cultivation within Municipal limits.  
(2) Compensation to be given in certain cases.
229. Person removing sand, etc., from public river, etc., without authority, liable to penalty.
230. (1) Stray pigs and dogs  
(2) may be destroyed.
- 230-A. Penalty for keeping pigs so as to be a nuisance.

*(a) Prevention of Infectious Diseases.*

231. (1) Chairman to have power of entry for purpose of preventing spread of disease.  
(2) Inspection to be made between sunrise and sunset.  
(3) Disinfection of houses, etc.
- 231-A. Penalty for selling, etc., infected article.
232. (1) Chairman to notify places for washing and disinfecting.  
(2) Infected articles may be destroyed.  
(3) Penalty.
- 232-A. Council may prohibit use of uncleanly wells and tanks.
233. Chairman may order removal of patients to hospital.
- 233-A. Penalty for travelling in public conveyance while suffering from disease.
- 233-B. Owner, etc., of public conveyance not bound to carry person suffering from disease.
- 233-C. Penalty for letting infected house.

*(b) Disposal of Corpses.*

234. (1) Municipal Council to provide burial or burning grounds.  
(2) Burial-grounds, etc., outside Municipality to be governed by Act and by-laws.
235. (1) Burial and burning grounds to be registered.  
(2) If no owner, Municipal Council may register or close.
236. No burial or burning ground to be opened without license.
237. A book to be kept of places registered.
238. Penalty for burying or burning in unlicensed or unregistered place.
239. Notice to be given to Municipal Council of burials, etc.

## SECTIONS.

240. (1) Where burial or burning grounds are dangerous to health, and another convenient place is provided, notice may issue not to bury or burn.  
 (2) Notice to be published.  
 (3) Penalty for burying, etc., contrary to notice.
241. (i) Depth of grave.  
 (ii) Distance between graves.  
 (iii) Re-opening graves.  
 (iv) Burial and cremation.  
 (v) Cremation to be complete.  
 (vi) Cloths, etc., to be burned.  
 (vii) Corpses to be decently covered.  
 (viii) Leaving corpse on highway.  
 (ix) Removal of corpse kept for dissection.  
 Penalty.

242. Grave-diggers to be licensed.

## 13. REGISTRATION OF BIRTHS AND DEATHS.

243. Municipal Council to keep register of births and deaths and appoint Registrars.
244. (1) Registrars to live in their districts.  
 (2) List of Registrars and their residence to be published.
245. Municipal Council to have Register books prepared.
246. Registrar to inform himself of and register every birth and death.
247. (1) Information of birth to be given within a week.  
 (2) Information of death to be given.
248. (1) Where persons die in hospital, Medical Officer in charge to send notice to Registrar.  
 (2) Persons performing funeral to give information.
- 248-A. Entry of name of child.
249. (1) Persons giving information to sign or mark the register.  
 (2) Registrar to give extract.  
 (3) But, in case of persons born or dying in hospital, register complete on entry of Medical Officer's notice.  
 (4) Search of birth and death registers.  
 (5) Custody of birth and death registers.

## CHAPTER V.

## MISCELLANEOUS.

250. (1) Power of Governor in Council to frame forms and make rules.  
 (2) Power to summon witnesses of persons conducting election inquiries.  
 (3) Rules and forms to have the force of law.
- 250-A. Assessment and account books to be open to inspection.

## SECTIONS.

251. (1) Annual estimate of expenditure to be submitted to the Governor in Council.
- (2) Governor in Council to pass orders on estimate.
252. An annual report of Proceedings, etc., to be submitted.
253. Inspection of schools, etc., by Government officers.
254. Appointment of officers to superintend operations of Municipalities.
- 254-A. (1) Exercise by Government officers appointed to carry out water or drainage works of powers exerciseable by Municipal Council or Chairman.
- (2) Payment by Municipal Council of compensation for damage.
255. (1) Municipal Council empowered to make by-laws.
- (2) Infringement of by-law.
- (3) Confirmation of by-laws.
- (4) By-laws to have the force of law.
256. (1) Publication of rules or by-laws.
- (2) Rules and by-laws not to have effect until after three months.
257. Copies of Acts, Rules, and By-laws to be sold at the Municipal office at cost price.
258. Acts of Municipal Council, etc., not to be invalidated by informalities.
259. Liability of Members for loss, waste or misapplication.
260. Penalty on Municipal Councillor, or servant, being interested in contract made with Municipal Council.
261. (1) No action to be brought against Municipal Council, etc., without one month's notice.
- (2) If tender of compensation made, award to be limited.
- (3) Action to be commenced within six months.
- (4) Action not to be brought against Chairman.
262. (1) Assessment, etc., not to be impeached.
- (2) No suit for recovery of sums collected.
- (3) Distraint not unlawful for want of form.
- Special damage actionable.
263. Consequence of failure to obtain license, etc., or breach of same.
264. Failure to comply with notice.
- 264-A. General penal clause.
265. Occupier may be required to pay rent to Council on default by owner.
266. Occupier, in default of owner, may execute works, and deduct expenses from his rent.
- 266-A. Occupier may recover payment made on behalf of owner.
267. (1) Fees for certain licenses, etc.
- (2) Rate of fee to be fixed by Council.
- 267-A. Licenses, etc., to specify the period during which they are in force.
268. Payments for unauthorized occupation of lands.
269. Fees, etc., recoverable as taxes.

## SECTIONS.

- 269-A. No distraint suit or prosecution after three years.
270. Surplus sale-proceeds to be credited to Municipal Fund after six months.
271. (1) Service of bills, notices, etc.  
 (2) If place of abode be unknown, such notice may be affixed on land, etc.  
 (3) Bill, &c., sent by post duly served.  
 (4) Period mentioned in notice to date from service of such notice.
272. (1) Owner to be proceeded against first, and in his absence the occupier.  
 (2) Obligation to rest with owner in first instance.
273. (1) Proceedings in case of occupier opposing execution of Act.  
 (2) Penalty.  
 (3) Owner absolved.
274. (1) Power to enter upon lands for the purposes of Act.  
 (2) Entry into zenana.
275. (1) Power of Chairman to enter on lands adjacent to works.  
 (2) Compensation for temporary occupation of land, or for injury thereto.  
 (3) Previous notice to owner or occupier.
276. Notice for setting apart public places.
277. (1) Penalty for obstructing Municipal Council, etc., in their duty.  
 (2) Penalty for removing or destroying notice.
278. Compensation may be made out of the Municipal Fund.
279. Acquisition of land under Act I of 1894.
280. No prosecution to be commenced by private person.
281. Liability for damage to Municipal property.
282. (1) Police Officers to report offences to Municipal Council.  
 (2) Power of Police to arrest persons committing offences in their view.  
 (3) Penalty.  
 (4) Investiture of Municipal servants with Police powers..
- 282-A. (1) Scavengers entitled to notice of discharge,  
 (2) and liable to penalty for leaving without notice.  
 (3) Similar provisions may be applied to certain other Municipal servants.
283. Penalty for omission to give information.
284. Illegal collection of taxes and tolls.
285. (*Prosecution before Magistrate.*) *Repealed.*
286. (1) Offender may be detained in custody, or compelled to give security, if fine, etc., be not forthwith paid.  
 (2) If no sufficient distress can be had, or there be not sufficient property whereupon the fine, etc., can be levied, the offender may be imprisoned.  
 (3) How fines and penalties are to be applied.

## SECTIONS.

287. (*Prosecution.*) *Repealed.*

288. Delegation of powers by the Governor in Council.

289. Notifications to be published in District Gazettes.

289-A. Publication of by-laws, orders, and notices, etc.

## SCHEDULES.

SCHEDULE A.—Tax on arts, professions, trades, and callings.

„ B.—Vehicles with springs, palanquins, and animals liable to taxation with the rates of taxation.

„ C.—Form of application for License for Vehicles and Animals.

„ D.—Maximum rates of Tolls payable on entering the Municipal limits.

„ E.—Distraint warrant.

„ F.—Form of inventory and notice.

„ G.—Table of fees payable on distraints under this Act.

MADRAS ACT No. IV OF 1884.<sup>1</sup>

## [THE MADRAS DISTRICT MUNICIPALITIES ACT, 1884.]

[ 7th May, 1884 ; 2nd July, 1884. ]

WHEREAS it is expedient to make better provision for the organization Preamble.  
and administration of District Municipalities in the Presidency of Fort St.  
George, for the conservancy and improvement thereof, for the diffusion of  
education therein, and for other objects of public utility calculated to promote  
the health, comfort and convenience of the inhabitants of the said Municipalities ; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called “The Madras District Municipalities Short title.  
Act, 1884.”

(2) It extends to the territories for the time being administered by the Local extent.  
Governor in Council of Fort St. George and situated beyond the limits of the  
City of Madras as defined by the said Governor in Council under the City  
of Madras Municipal Act, 1884,<sup>2</sup> or other law in force for the time being.

2. (*Repeal.*) *Repealed by Madras Act III of 1897, section 3 (1).*

<sup>1</sup> For Statement of Objects and Reasons, see Fort St. George Gazette, Extr. dated 27th September, 1883, p. 65 ; for Reports of Select Committee, see *ibid* Supplement, dated 8th January and 18th March, 1884, p. 1 ; for Proceedings in Council, see *ibid* Supplement, dated 16th October, 1883, p. 334, 12th February 1884, p. 45 and 29th April 1884, p. 2.

<sup>2</sup> The figures “1884” were substituted for the figures “1878” by Madras Act III of 1897, s. 4 *infra*.

Interpre-  
tation clause,  
“Building.”

<sup>1</sup> 3. In this Act, unless there is something repugnant in the subject or context :—

- (i) “Building” includes walls, and, also, houses, huts, sheds, roofed enclosures and constructions appurtenant thereto, whether used for the purpose of human habitation or otherwise.
- “Company.” (ii) “Company” means a company registered under the Indian Companies Act, 1882,<sup>2</sup> or under the Acts of Parliament known under the collective title of the Companies Acts, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent.
- “Gender.” (iii) Words importing the masculine gender shall be taken to include females.
- “Guardian.” (iv) “Guardian” means any person to whom the care, nurture or custody of any child falls by law or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any lawful authority.
- “Hack-stable.” (v) “Hack-stable” means any place where a horse is ordinarily kept for hire.
- “Horse.” (vi) “Horse” includes pony and mule.
- “Inhabitant.” (vii) “Inhabitant” means any person who shall have been ordinarily residing in any Municipality for a period of six months or upwards.
- “Inoculation.” (viii) “Inoculation” means any operation performed with the object of producing the disease of small-pox by means of variolous matter.
- “Latrine.” (ix) “Latrine” includes privy.
- “Magistrate.” (x) “Magistrate” means a Magistrate appointed under the Code of Criminal Procedure, 1882.<sup>3</sup>
- “Market.” (xi) “Market” means any place which is a market at the passing of this Act, or which may have been declared under section 193-A to be a market.
- “Public market.” (xii) “Public market” means any market belonging to the Municipal Council or constructed, repaired or maintained out of the Municipal Fund.
- “Private market.” (xiii) “Private market” means any other market.
- “Municipality.” (xiv) “Municipality” means any town, village, hamlet, suburb, bazaar, station or other local area, or any number of the same, which may be declared to be a Municipality in the manner hereinafter provided.

<sup>1</sup> This section was substituted for the original s. 3 by Madras Act III of 1897, s. 5, *infra*.

<sup>2</sup> See now Act VII of 1913, General Acts, Vol. VII.

<sup>3</sup> See now Act V of 1898, General Acts, Vol. V.

- (xv) "The Municipal Council" means the body of persons constituted under this Act for each Municipality. "The Municipal Council."
- (xvi) "Notice" means a written, printed or lithographed notice. "Notice."
- (xvii) "Nuisance" means any act, omission or thing causing or likely to cause any common injury, annoyance, offence, harm, danger or damage to the sense of sight, smell or hearing of, or which is, or is likely to be, dangerous or injurious to the health or property of, the public or the people in general who dwell or occupy property in the vicinity or persons who may have occasion to use any public right. "Nuisance."
- (xviii) Words in the singular shall include the plural and *vice versa*. "Number."
- (xix) "Owner" includes the person for the time being receiving or entitled to receive the rent or profits of the property or in charge of the animal or thing in connection with which the word is used, whether on his own account or as agent or trustee for another person. "Owner."
- (xx) "Palanquin" includes tonjons, manchils and chairs carried by men by means of poles, but not slings or cots used for the conveyance of children or aged or sick people. "Palanquin."
- (xxi) "Parent" means the father of a legitimate child and the mother of an illegitimate child. "Parent."
- (xxii) "Person" shall include any company or association or body of individuals, whether incorporated or not. "Person."
- (xxiii) "Salary" means pay and acting pay, or payment by way of commission, but not allowances for house-rent, carriage hire or travelling expenses. "Salary."
- (xxiv) "Scavenger" means a person employed in collecting or removing night-soil, in cleansing drains or slaughter-houses or in driving carts used for the removal of night-soil. "Scavenger."
- (xxv) "Schedule" means a schedule to this Act. The Schedules shall be read as part of this Act. "Schedule."
- (xxvi) "Section" means a section of this Act. "Section."
- (xxvii) "Street" includes any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public has a right of way, together with the drains on either side and with the land, whether covered or not by any pavement, verandah or other erection, which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property be private property or property reserved by Government for other purposes; and also includes the roadway over any public bridge or causeway. "Street."
- (xxviii) "Public street" means any street which is now vested in the Municipal Council, or which may hereafter be made at the cost of the Municipal Fund, or which may hereafter be declared under section 163 to be a public street. "Public street."

- "Unprotected child." (xxix) "Unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation or by having been successfully vaccinated, and who has not been certified in the manner hereinafter provided to be insusceptible of vaccination.
- "Vaccinator." (xxx) "Vaccinator" means a public or private vaccinator.
- "Public Vaccinator." (xxxi) "Public vaccinator" means any vaccinator employed under this Act by a Municipal Council.
- "Private Vaccinator." (xxxii) "Private vaccinator" means any person licensed by the Governor in Council to perform the operation of vaccination.
- "Water-course." (xxxiii) "Water-course" includes any river, stream or channel, whether natural or artificial.
- "Public water-courses, etc." (xxxiv) "Public water-courses, springs, wells and tanks" include those used by the public to such an extent as to give it a prescriptive right to such use.

Notification of intention to extend the Act. <sup>1</sup> 4. (1) The Governor in Council may, by notification, declare his intention to constitute as a Municipality any town, village, hamlet, bazaar, station or other local area or any group of the same in the immediate neighbourhood of one another.

Notification to define area. (2) Every such notification shall define the limits of the local area to which it relates.

Inhabitants may submit objections. (3) Any inhabitant of a local area in respect of which a notification has been published under sub-section (1) may, if he desires to object to any thing therein contained, submit his objection in writing to the Governor in Council within six weeks from the publication of the notification, and the Governor in Council shall take all such objections into consideration.

Extension of Act. (4) When six weeks from the date of the publication have expired and the Governor in Council has considered and passed orders on such objections as may have been submitted to him, the Governor in Council may, by notification, declare the local area or any portion of it to be a Municipality.

Notification of intention to alter limits of Municipality. <sup>2</sup> 4.A. (1) The Governor in Council may, by notification, declare his intention—

(a) to exclude from a Municipality any local area comprised therein, and defined in such notification; or

(b) to include within a Municipality any local area in the vicinity of the same and defined in the notification.

Rate-payers and inhabitants may submit objections. (2) Any rate-payer of a Municipality or inhabitant of a local area in respect of which a notification has been published under sub-section (1) may, should he object to the alteration proposed, submit his objection in writing to the Governor in Council within six weeks from the publication of the notification and the Governor in Council shall take such objection into consideration.

<sup>1</sup> This section was substituted for sub-section (1) of the original s. 4 by Madras Act III of 1897, s. 6, *infra*.

<sup>2</sup> Ss. 4-A and 4-B were substituted for sub-section (2) of the original s. 4 by Madras Act III of 1897, s. 7, *infra*.



(3) When six weeks from the publication of the notification have expired and the Governor in Council has considered the objections, if any, which have been submitted under sub-section (2), the Governor in Council may, by notification, exclude the local area or any portion of it from the Municipality, or include the whole or any portion of it therein as the case may be.

Notification altering limits.

<sup>1</sup> 4-B. (1) The Governor in Council may, by an order in writing published together with a statement of his reasons for making the same,—

(a) modify or cancel any notification issued under sub-section (4) of section 4 and dissolve the Municipal Council, or

Notification — under section 4 (4) liable to modification or cancellation.

(b) supersede for a specified period any Municipal Council which in his opinion is not competent to perform or persistently makes default in performing the duties imposed on it by law or exceeds or abuses its powers :

Supersession of Municipal Council when permissible.

Provided that no such orders shall be passed without previously intimating to the Municipal Council the grounds upon which the proposal is based and considering the explanations and objections, if any, of the Municipal Council.

Proviso.

(2) Upon the dissolution of a Municipal Council under clause (a) of sub-section (1) the Governor in Council may pass such orders as he may deem fit as to the disposal of the property theretofore vested in such Municipal Council.

Consequences of the dissolution of a Municipal Council.

(3) (a) Upon the supersession of a Municipal Council under clause (b) of sub-section (1) the following consequences shall ensue :—

Consequences of the supersession of a Municipal Council.

(i) All the members of the Municipal Council shall forthwith vacate their offices as such.

(ii) All the powers and duties of the Council shall, during the period of supersession, be exercised and performed by such person or persons as the Governor in Council appoints in that behalf.

(iii) All property vested in the Council shall, during the period of supersession, vest in the Governor in Council.

(b) On the expiry of the specified period of supersession, the Municipal Council shall be reconstituted and the members who vacated their offices in consequence of the supersession shall not be deemed disqualified for re-election or re-appointment as such.

<sup>2</sup> 5. This Act shall come into force in, or cease to apply to, any Municipality or part of a Municipality as the case may be, on such date as may be specified in the notification mentioned in sub-section (4) of section 4, or sub-section (3) of section 4-A, or clause (a) of sub-section (1) of section 4-B.

Commencement and cessation of Act.

<sup>1</sup> Ss. 4-A and 4-B were substituted for sub-section (2) of the original s. 4 by Madras Act III of 1897, s. 7, *infra*.

<sup>2</sup> This section was substituted for the original s. 5 by Madras Act III of 1897, s. 8, *infra*.

6. (Effects of *Municipal Council* coming into existence in any town as defined in Act III of 1871) and

7. (Reference in prior Acts, etc.) Repealed by Madras Act III of 1897, section 3 (1).

## CHAPTER II.

### 1. MUNICIPAL COUNCILS AND THEIR CONSTITUTION.

Establishment of a Municipal Council.

8. There shall be constituted for each Municipality a Municipal Council, having authority over such Municipality and consisting of not less than twelve<sup>1</sup> [and of not more than twenty-four] persons, who shall be called Municipal Councillors.

Revenue officer in charge of the Division to be *ex-officio* Municipal Councillor.  
Appointment of other Municipal Councillors.

<sup>2</sup> 9. The Revenue-officer in charge of the Division of the District wherein any Municipality is situated shall *ex-officio* be a Municipal Councillor of such Municipality.

<sup>3</sup> 10. Subject to the conditions contained in section 10-A and to such rules and other conditions as may be prescribed by the Governor in Council, the other Municipal Councillors shall be partly appointed by the Governor in Council and partly appointed by election by the tax-payers and inhabitants of the Municipality or of a part thereof:

Provided that, for a period not exceeding three years from the date of the constitution of a Municipality, all such Municipal Councillors may be appointed by the Governor in Council.

Qualifications for appointment as Municipal Councillor.

<sup>4</sup> 10-A. (1) In order to be qualified to be appointed a Municipal Councillor, a person must—

- (a) be of the male sex ;
- (b) have completed his twenty-fifth year ;
- (c) be resident within the Municipality or within two miles of the limits thereof ;
- (d) not be a Municipal Councillor or an officer or servant holding office under this Act or an Honorary Magistrate for the Municipal town, unless, in the case of his being an Honorary Magistrate, the Governor in Council exempts him from the disqualification ;
- (e) not have been convicted of any such offence or subjected by a Criminal Court to any such order as implies, in the opinion of the Governor

<sup>1</sup> These words in square brackets were inserted by Madras Act III of 1897, s. 9, *infra*.

<sup>2</sup> This section in its application to Municipalities to which the Madras Hill Municipalities Act, 1907 (Mad. Act II of 1907) extends or is extended shall be read with the addition of the following words :—

"If there be no such officer, the Collector of the District, or such Assistant or Deputy Collector as he may appoint in this behalf, shall be deemed to be the Revenue-officer in charge of the Division."—Madras Act II of 1907, s. 5 (1) (a), *infra*.

<sup>3</sup> This section was substituted for the original s. 10 by Madras Act III of 1897, s. 10.

<sup>4</sup> Ss. 10-A and 10-B were inserted by Madras Act III of 1897, s. 11.

in Council, a defect of character which unfits him to be a Municipal Councillor ;

(f) not be an uncertificated bankrupt or undischarged insolvent ;

(g) not be a person interested, otherwise than as a shareholder in a Joint Stock Company, in any contract made with, or work done for, the Municipal Council.

(2) No person is qualified to be appointed a Municipal Councillor if any of his servants or any person in whose service he is employed is a member of the Municipal Council.

<sup>1</sup> **10-B.** (1) Whoever, being qualified to vote at any election under this Act or claiming to be so qualified, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person any gratification whatever as a motive or reward for giving, or forbearing to give, his vote in any such election, shall be liable to a fine not exceeding one hundred rupees for every such offence.

Penalties for corrupt practices at municipal elections.

(2) Whoever, by any gift or reward, or by any promise or agreement or security or any gift or reward, corrupts or procures, or offers to corrupt or procure, any person to give, or forbear to give, his vote in any election under this Act, shall be liable to a fine not exceeding two hundred rupees for every such offence.

(3) Every person convicted under either of the preceding sub-sections shall, for a term of seven years, be disqualified from voting at any such election and from being elected a Municipal Councillor.

**11.** <sup>2</sup> [Notwithstanding anything contained in clause (c) of sub-section (1) of section 10-A, any person holding a salaried office under Government may be appointed by the Governor in Council to be a Municipal Councillor :]

Appointment of officials as Municipal Councillors.

Provided that the number of such persons appointed by the Governor in Council to be Municipal Councillors of any Municipality shall, together with the *ex-officio* Municipal Councillor, not exceed one-fourth of the number of Municipal Councillors for such Municipality.

Proportion of officials and non-officials.

<sup>3</sup> **12.** Upon this Act coming into force in any Municipality, the Governor in Council shall, by notification, declare—

Governor in Council to declare what the maximum number of Municipal Councillors is to be, etc.

(i) what shall be the maximum number of Municipal Councillors to be appointed for the time being for such Municipality ;

(ii) what shall be the number or proportion, if any, of Municipal Councillors to be appointed by election in such Municipality or in a part thereof ; <sup>4</sup> [ and

(iii)] whether the Chairman shall be appointed by the Governor in Council or by election :

<sup>1</sup> See footnote to s. 10-A *supra*.

<sup>2</sup> This paragraph in square brackets was substituted for the original paragraph by Madras Act III of 1897, s. 12, *infra*.

<sup>3</sup> Ss. 13 and 12 of the Act were renumbered as 12 and 13, respectively, by Madras Act III of 1897, s. 13 (i).

<sup>4</sup> The word and figures "and iii" were substituted for the figures and word "iii and" by Madras Act III of 1897, s. 13 (ii).

He may  
cancel or  
modify such  
declaration.

<sup>1</sup> Provided that the Governor in Council may, by notification, accompanied by a statement of his reasons for making the same, cancel or modify such declaration; but no such notification cancelling or modifying a declaration made under clauses (ii) and (iii) of this section shall be issued without previous intimation to the Municipal Council of the intention of the Governor in Council to issue such notification and of the grounds thereof, or without the consideration by the Governor in Council of the explanations and objections, if any, of the Municipal Council or the Chairman; and no such cancellation or modification shall come into force until three months after the same shall have been notified.

Proportion of  
Municipal  
Councillors  
appointed by  
election.

<sup>2</sup> 13. In any Municipality, where the Municipal Councillors are partly appointed by election, the number of the persons so appointed shall, unless the Governor in Council otherwise directs, be three-fourths of the whole number of the Municipal Councillors.

Governor  
in Council  
to appoint  
Chairman or  
to authorize  
his election.

<sup>3</sup> 14. (1) The Governor in Council may either,

- (a) himself appoint some person to be the Chairman of the Municipal Council, or,
- (b) direct the Municipal Councillors to appoint their Chairman by election subject to his approval and in accordance with such rules and conditions as he may prescribe—

Provided that—

- (i) unless specially exempted by the Governor in Council every person so appointed must be qualified to be a Municipal Councillor under section 10-A;
- (ii) when the Chairman appointed is not a Municipal Councillor, he shall, during his tenure of office as Chairman which shall be for a term of two years, be *ex-officio* a Municipal Councillor irrespective of the strength fixed for the Council under section 12, and shall not be reckoned in calculating the proportions of the number of Municipal Councillors under sections 11 and 13.

Procedure in  
case Muni-  
cipal Council  
fails to make  
any or a  
suitable  
election.

(2) If the Governor in Council has directed the Municipal Councillors to appoint their Chairman by election, and the Municipal Councillors fail to make an appointment within two months from the receipt of such direction, or if the Municipal Councillors make on two successive occasions a nomination which does not meet with his approval, the Governor in Council shall himself appoint a Chairman.

Election  
of a Vice-  
Chairman.

(3) The Municipal Council may, with the previous sanction of, and in such manner as may be prescribed by, the Governor in Council, elect one of their number to be Vice-Chairman.

<sup>1</sup> This proviso was substituted for the original proviso by Madras Act III of 1897, s. 13 (i), *infra*.

<sup>2</sup> Ss. 13 and 12 of the Act were renumbered as 12 and 13, respectively, by Madras Act III of 1897, s. 13 (i).

<sup>3</sup> This section was substituted for the original s. 14 by Madras Act III of 1897, s. 14.

<sup>1</sup> 15. (1) In any Municipality where the office of Chairman becomes vacant, the Vice-Chairman, or if there is no Vice-Chairman, the Revenue officer in charge of the Division of the District wherein such Municipality is situated, shall assume charge of the office of Chairman, and shall discharge the duties of the same until a Chairman is duly appointed.

Chairman  
or Revenue  
Divisional  
Officer to  
assume  
charge of the  
office of  
Chairman  
when vacant.

(2) In the temporary absence from a Municipality of the Chairman, his duties and powers shall devolve upon the Vice-Chairman, if any.

Vice-  
Chairman  
to perform  
duties and  
have powers  
of Chairman  
during his  
temporary  
absence

<sup>2</sup> 16. (1) No Municipal Councillor, other than the Chairman, shall receive any salary or other remuneration from the Municipal Fund; and no Chairman shall receive any such salary or remuneration unless the payment thereof shall have been sanctioned by the Municipal Council with the approval of the Governor in Council.

Chairman  
alone may  
receive  
remunera-  
tion.

(2) Where such salary is attached to the office of the Chairman, the Municipal Council shall be entitled to nominate such Chairman for the approval of the Governor in Council in accordance with such rules and conditions as may be prescribed by the Governor in Council:

Municipal  
Council to  
nominate a  
paid  
Chairman.

Provided that it shall be lawful for the Governor in Council himself to appoint such Chairman if the Municipal Council fail to make a nomination within two months from the receipt of an order from the Governor in Council directing them to nominate a Chairman, or if the Municipal Council make, on two successive occasions, a nomination which does not meet with the approval of the Governor in Council.

Proviso.

<sup>3</sup> 17. (1) Subject to the provisions of sections 19 and 20, every person appointed, as aforesaid, to be a Municipal Councillor shall continue in office for three years from the date of the *Fort St. George Gazette* wherein his appointment was notified under section 21-A and he shall then cease to be a Municipal Councillor; and any Municipal Councillor appointed to be Chairman or Vice-Chairman shall be deemed to have vacated such office on the expiry of the term for which he was originally appointed Municipal Councillor or on his otherwise ceasing to be a Municipal Councillor or, in the case of a Chairman, upon the cancellation of a declaration made under section 12 (iii) in respect of the appointment of the Chairman:

Term of  
office of  
Municipal  
Councillor.

Provided that on one occasion only after the passing of the Madras District Municipalities Act Amendment Act, 1897, the Governor in Council may

<sup>1</sup> This section was substituted for the original s. 15 by Madras Act III of 1897, s. 15.

<sup>2</sup> This section was substituted for the original s. 16 by Madras Act III of 1897, s. 16.

<sup>3</sup> This sub-section was substituted for the original sub-section (1) by Madras Act III of 1897, s. 17 (1).

by notification prescribe a date upon which all Municipal Councillors appointed by election prior to such date shall vacate office.

(2) But any outgoing Chairman, <sup>1</sup>[Vice-Chairman] or Municipal Councillor shall, if otherwise qualified, be eligible for re-appointment.

Outgoing  
Municipal  
Councillor  
eligible for  
re-appoint-  
ment.  
Resignation  
of Municipal  
Councillor.

18. (1) Any person appointed, as aforesaid, to be Chairman, <sup>1</sup>[Vice-Chairman] or Municipal Councillor may tender his resignation to the Governor in Council, and, on such resignation being accepted, he shall be deemed to have vacated his office.

Vacation of  
office by  
Government  
servant who  
is Municipal  
Councillor.

(2) Any person holding a salaried office under Government who is a Municipal Councillor of any Municipality shall, on being transferred <sup>2</sup>[permanently or temporarily] from the District or Division wherein such Municipality is situated, <sup>3</sup>[or on quitting the District or Division with the intention of remaining absent therefrom for more than three months] be deemed to have vacated his office of Municipal Councillor.

Removal of  
Municipal  
Councillor.

19. (1) <sup>3</sup>[The Governor in Council may, by notification, remove any Chairman, Vice-Chairman or Municipal Councillor, other than an *ex-officio* Chairman or Municipal Councillor]

<sup>4</sup> (i) on the ground that, at the time of his appointment, he was not qualified under section 10-A to be appointed a Municipal Councillor ;

<sup>5</sup> (ii) if he refuses to act or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Governor in Council, a defect of character which unfits him to be a Chairman, Vice-Chairman or Municipal Councillor ;

<sup>5</sup> (iii) if he, without an excuse sufficient in the opinion of the Governor in Council, neglects for more than three consecutive months to be present at the meetings of the Municipal Council ;

<sup>5</sup> (iv) if his continuance in office is, in the opinion of the Governor in Council, dangerous to the public peace or order, <sup>6</sup>[or likely to bring the Municipal administration into contempt :

Provided that when the Governor in Council proposes to take action under this clause he shall not pass any orders without giving an opportunity of explanation to the Chairman, Vice-Chairman or Councillor concerned, and shall also record the reasons for the action taken].

<sup>1</sup> The word " Vice-Chairman " in ss. 17 (2) and 18 (1) and 19 (1) (ii) was inserted by Madras Act III of 1897, ss. 17 (2), 18 (1) and 19 (3) respectively.

<sup>2</sup> These words were inserted by Madras Act III of 1897, s. 18 (2).

<sup>3</sup> These words were substituted for the original words by Madras Act III of 1897, s. 19 (1).

<sup>4</sup> Clause (i) was inserted by Madras Act III of 1897, s. 19 (2).

<sup>5</sup> Clauses (i), (ii) and (iii) of the original Act were renumbered as (ii), (iii) and (iv), respectively, by Madras Act III of 1897, s. 19 (2).

<sup>6</sup> These words in square brackets were inserted by Madras Act III of 1897, s. 19 (4).

<sup>1</sup>(v) in the case of a Chairman, if he, without an excuse sufficient in the opinion of the Governor in Council, omits or refuses to carry out any resolution of the Council.

(2) The Governor in Council may prescribe a period during which such Chairman, Vice-Chairman<sup>2</sup> or Municipal Councillor so removed shall not be eligible for re-appointment or re-election.

20. (1) When the office of Chairman or Municipal Councillor, appointed under this Act, becomes vacant, \* \* \* a new Chairman or Municipal Councillor shall, unless the Governor in Council otherwise directs <sup>4</sup>[in exercise of the powers vested in him under section 12] be appointed in the same manner in which his predecessor was appointed. Filling of vacancy.

<sup>5</sup>(2) The person so appointed shall, subject to the provisions of clause (ii) of sub-section (1) of section 14, hold his seat for the unexpired remainder of the term for which his predecessor would otherwise have continued in office, but shall, if otherwise qualified, be eligible for re-appointment.

21. Every Municipal Council shall be a body corporate by the name of the Municipal Council of its Municipality, shall have perpetual succession and a common seal, with power to hold and acquire property, both moveable and immoveable, and, subject to the restrictions hereinafter contained, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name. Incorporation of Municipal Councils.

<sup>6</sup>21-A. All elections and appointments of Chairmen, Vice-Chairmen and members of the Municipal Councils shall be notified in the *Fort St. George Gazette*. Appointments to be notified in the Gazette.

## 2. MUNICIPAL PROPERTY AND MUNICIPAL FUND.

22. (*Power to vest the property of Government in a Municipal Council.*)  
*Repealed by Madras Act III of 1897, section 3 (1).*

23. All public streets in any Municipality, and the pavements, stones and other materials thereof, and also all erections, materials, implements and other things provided for such streets, shall vest in, and belong to, the Municipal Council. But it shall be competent to the Governor in Council, from time to time, by notification, to exclude any street from the operation of this Act, and to modify or cancel such notification. Public streets, etc., vested in the Municipal Council.

24. (1) All sewers, drains, drainage works, tunnels, and culverts in, alongside or under the streets, in any Municipality, whether made at the cost of the Municipal Council or otherwise, and all works, materials and things appertaining thereto, shall vest in, and belong to, the Municipal Council. Sewers, drains, etc., vested in the Municipal Council.

(2) All rubbish, sewage, filth and other matters collected under this Act shall vest in, and belong to, the Municipal Council. Rubbish, etc., to belong to Municipal Council.

<sup>1</sup> Clause (v) was added by Madras Act III of 1897, s. 19 (5).

<sup>2</sup> The word "Vice-Chairman" in s. 19 (2) was inserted by Madras Act III of 1897, s. 19 (6).

<sup>3</sup> Words repealed by Madras Act III of 1897, s. 20 (1), are omitted.

<sup>4</sup> These words were inserted by Madras Act III of 1897, s. 20 (1).

<sup>5</sup> This sub-section was inserted by Madras Act III of 1897, s. 20 (2).

<sup>6</sup> Section 21-A was inserted by Madras Act III of 1897, s. 21.

Governor in Council may exclude any sewer, etc.

(3) But it shall be competent to the Governor in Council to exclude, from time to time, by notification, any sewer, drain, drainage work, tunnel and culvert from the operation of this Act, and to modify or cancel such notification.

**25.** (*Power to vest in a Municipal Council hospitals, schools, choultries, etc., not being private property, together with endowments appertaining thereto.*) Repealed by Madras Act III of 1897, section 3 (1).

Saving of Revenue Board's powers in regard to charitable endowments. Power to transfer them to Municipal Council.

**26.** (1) Nothing in this Act shall be deemed to affect the duties and powers vested in the Board of Revenue in respect of charitable endowments by Regulation VII of 1817.

(2) <sup>1</sup> [But subject to the control of the Governor in Council it shall be competent to the said Board with the written consent of the Municipal Council] to make over to the Municipal Council the management and superintendence of any such endowment; and thereupon all powers and duties which attach to the Board of Revenue in respect thereof shall attach to such Municipal Council as if they had been specifically named in the said Regulation.

What shall constitute the Municipal Fund.

**27.** All moneys, rents and profits received by the Municipal Council of any Municipality by virtue of this or any other Act, and all fines, fees and penalties paid or levied under this Act, and all other moneys which, under sanction of the Governor in Council, may be transferred to such Municipal Council, shall be credited to, and shall constitute a fund which shall be called, the Municipal Fund of such Municipality, and shall, together with all property of every nature or kind which may become vested in the said Municipal Council, be under their control, and shall be held by them in trust for the purposes of this Act.

Custody of Municipal Fund.

**28.** (1) All moneys received by the Municipal Council or forming part of the Municipal Fund, shall be lodged in the nearest Government Treasury or, with the sanction of the Governor in Council, in <sup>2</sup>[a Bank]: Provided always that it shall be competent to the Municipal Council, with the sanction of the Governor in Council, to invest any sums, not required for immediate use, either in the Government Savings Bank or in Government Securities, or in any other form of security which may be approved of by the Governor in Council.

Mode of drawing on Municipal Fund.

(2) All orders for payment of money from the Municipal Fund shall be signed by the Chairman or, in the absence of the Chairman, <sup>3</sup>[by any two Municipal Councillors who have been duly authorized in this behalf by the Chairman] and the Treasury or Bank in which such fund may be lodged

<sup>1</sup> These words in square brackets were substituted for the words "But it shall be competent to the said Board with the written consent of the Governor in Council and of the Municipal Council," by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

<sup>2</sup> The words "a Bank" were substituted for the original words by Madras Act III of 1897, s. 22 (1).

<sup>3</sup> These words in square brackets were substituted for the original words by Madras Act III of 1897, s. 22 (2).



shall, so far as the funds to the credit of the Municipality admit, pay all orders against the said fund which are so signed; <sup>1</sup>[provided that if the Municipal Council shall have given previous authority in writing, such Treasury or Bank may at once pay out of such fund without such order any expense which the Governor in Council has incurred on behalf of the Municipal Council].

### 3. MODE OF TRANSACTING BUSINESS.

**29.** (1) The Municipal Council shall provide an office and shall meet for the transaction of business at least once in every month, upon such days and at such times as they may arrange, and also at other times as often as a meeting shall be called by the Chairman. Municipal Council to keep an office and to meet at least once a month. Chairman to convene meeting on requisition.

<sup>2</sup>(2) The Chairman shall, on the requisition in writing of not less than one-fourth of the Municipal Councillors then on the Council, convene a meeting of the Municipal Council, provided that the requisition specifies the day when, and the purpose for which, the meeting is to be held, and is made at least six days previous to the day of such meeting.

<sup>2</sup>(3) Except in cases of urgency, no meeting shall be held unless notice of the day and time when the meeting is to be held and of the business to be transacted thereat has been given at least three clear days previous to the day fixed for the meeting. Notice of meeting and business to be issued.

<sup>2</sup>(4) All meetings of the Municipal Council shall be open to the public; Meetings to be public. Provided that the presiding member may, in any particular case, for reasons to be recorded in the minute-book kept under section 31, direct that the public generally, or any particular person, shall withdraw.

**30.** (1) At every meeting of the Municipal Council the Chairman <sup>3</sup>[or Who to preside at meetings. in his absence the Vice-Chairman] shall preside. In the absence from any meeting <sup>4</sup>[of both the Chairman and Vice-Chairman], the Municipal Councillors present at the meeting shall choose some one of their number to preside thereat.

(2) All questions which may come before the Municipal Council at any meeting shall be decided by a majority and, in every case of equality of votes, Decision by majority. Casting vote. \* \* \* \* the presiding Municipal Councillor shall have a second or casting vote.

<sup>5</sup>(3) No Municipal Councillor shall vote on any question coming before the Council for consideration in which (otherwise than in its general application to all persons and properties within the Municipality) he has any pecuniary interest. Interested Councillor not to vote.

<sup>1</sup> These words in square brackets were inserted by Madras Act III of 1897, s. 22 (2).

<sup>2</sup> Sub-sections (2), (5) and (4) were substituted for the original sub-section (2) by Madras Act III of 1897, s. 23.

<sup>3</sup> These words in square brackets were inserted by Madras Act III of 1897, s. 24 (1).

<sup>4</sup> These words in square brackets were substituted for the original words by Madras Act III of 1897, s. 24 (1).

<sup>5</sup> Words repealed by Madras Act III of 1897, s. 24 (2), are omitted.

<sup>6</sup> This sub-section was inserted, and sub-sections (3), (4) and (5) re-numbered as sub-sections (4), (5) and (6), respectively, by Madras Act III of 1897, s. 24 (3).

Certain officers may address Council.

(4) <sup>1</sup> [The Sanitary Commissioner, the Sanitary Engineer,] the Civil Surgeon of the District, the Executive Engineer of the Division, <sup>2</sup> [the Inspector or the Assistant Inspector of Schools,] when such officer is not a Municipal Councillor, may, with the previous sanction of the Chairman, <sup>3</sup> \* \* \* address the Council on any matter affecting <sup>4</sup> \* \* \* sanitation, public works and public instruction.

Quorum.

<sup>5</sup> (5) No business shall be transacted at a meeting unless there be present at least four Municipal Councillors or, if the number of Municipal Councillors then on the Council exceeds twelve, at least one-third of that number.

If, within half an hour after the time appointed for a meeting, a quorum is not present, the meeting shall stand adjourned, unless all the members present agree to wait longer.

Modification, etc., of resolutions.

(6) No resolution of the Municipal Council shall be modified or cancelled within three months after the passing thereof except <sup>6</sup> [at a meeting specially, convened in that behalf and] by a resolution of the Municipal Council supported by <sup>7</sup> [the votes of not less than one-half of the sanctioned number of Municipal Councillors].

Minutes of Proceedings to be kept, and to be open for inspection.

**31.** (1) <sup>8</sup> [Minutes of the proceedings at each meeting of the Municipal Council] shall be drawn up and entered in a book to be kept for that purpose; and shall be signed by the Chairman or the Municipal Councillor who presided at such meeting, or, in his absence, by some one of the Municipal Councillors present thereat; and the said Minutes shall, at all reasonable times and without charge, be open at the Municipal Office to the inspection of any person who pays any tax under this Act in the Municipality.

Minutes to be sent to Divisional Officer for publication.

(2) Within three days of the date of the meeting, a copy of the Minutes of the <sup>9</sup> [proceedings at] such meeting shall be forwarded by the <sup>10</sup> [Chairman] to the Revenue-officer in charge of the Division of the District wherein the Municipality is situated, for publication, at the cost of the Municipal Fund, in the District Gazette, in English and in a Vernacular language of the district <sup>11</sup> [provided that the Chairman shall immediately submit to the said Revenue-officer any minute of dissent that may be forwarded to him within forty-eight hours of the meeting by any Councillor].

Certified copies of proceedings and records.

<sup>12</sup> (3) The Chairman shall have the custody of the proceedings and records of the Municipal Council, and may grant copies of any such proceedings and

<sup>1</sup> These words were inserted by Madras Act III of 1897, s. 24 (4).

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 24 (4).

<sup>3</sup> & <sup>4</sup> Words repealed by Madras Act III of 1897, s. 24 (4), are omitted.

<sup>5</sup> This sub-section was substituted for the original sub-section (4) by Madras Act III of 1897, s. 24 (5).

<sup>6</sup> These words were inserted by Madras Act III of 1897, s. 24 (6).

<sup>7</sup> These words were substituted for the original words by Madras Act III of 1897, s. 24 (6).

<sup>8</sup> These words were substituted for the original words by Madras Act III of 1897, s. 25 (1).

<sup>9</sup> These words were substituted for the original words by Madras Act III of 1897, s. 25 (2).

<sup>10</sup> The word "Chairman" was substituted for the words "Municipal Council" by Madras Act III of 1897, s. 25 (2).

<sup>11</sup> This proviso was inserted by Madras Act III of 1897, s. 25 (2).

<sup>12</sup> This sub-section (3) was inserted by Madras Act III of 1897, s. 25 (3).

records on payment of such fees as the Municipal Council may, by general or special order, prescribe. Copies granted under this sub-section shall be certified by the Chairman as provided in section 76 of the Indian Evidence Act, 1872,<sup>1</sup> and copies so certified may be used to prove the records of the Municipal Council in the same manner as they may, under sub-section (5) of section 78 of the said Act, be used to prove the proceedings of that body.

**32.** (1) The resolutions of the Municipal Council shall be carried into effect by the Chairman, in whom the entire executive power of the Municipal Council shall be vested, and who shall be directly responsible for the due fulfilment of the purposes of this Act. The Chairman to carry out the resolutions of the Municipal Council.

<sup>2</sup>(2) The Chairman shall furnish to the Municipal Council such monthly reports regarding the progress made in carrying out the resolutions of that body and in the collection of taxes as the Municipal Council may prescribe. Chairman to furnish progress reports.

<sup>3</sup>(3) The Chairman may, from time to time, authorize the Vice-Chairman, by an order in writing, to exercise any of the powers conferred, or to perform any of the duties imposed, on the Chairman by this Act, and may, at any time in like manner, modify or cancel such order : Delegation of powers by Chairman to Vice-Chairman.

Provided that—

- (i) he shall not delegate any powers or duties to the Vice-Chairman which the Municipal Council expressly prohibits him from delegating ;
- (ii) the delegation of powers or duties under this sub-section shall not relieve the Chairman of any responsibility imposed upon him by this Act.

<sup>3</sup>(4) Where there is no Vice-Chairman the Chairman may, with the previous consent of the Municipal Council, from time to time authorize, by an order in writing, any Municipal Councillor whom he may select, to exercise any of the powers conferred, or to perform any of the duties imposed, on such Chairman by this Act and may, at any time, in like manner, modify or cancel such order : Delegation of powers by Chairman to a Municipal Councillor.

Provided that—

- (i) the Chairman may not delegate his powers or duties under this sub-section for any period or periods exceeding, in the aggregate, three months in any one financial year ;
- (ii) the delegation of powers or duties under this sub-section shall not relieve the Chairman of any responsibility imposed upon him by this Act ; and
- (iii) every order made by the Chairman under this sub-section shall be communicated at once to the District Collector and to the Revenue-officer in charge of the Division.

<sup>1</sup> Act I of 1872, General Acts, Vol. II.

<sup>2</sup> This sub-section was inserted by Madras Act III of 1897, s. 26 (1)

<sup>3</sup> Sub-sections (3) and (4) were substituted for the original sub-section (2) of the section by Madras Act III of 1897, s. 26 (2).

A Municipal Councillor authorized under this sub-section to exercise any of the powers or to perform any of the duties of the Chairman shall, for the period during which he exercises such powers or performs such duties, be styled the 'Chairman delegate.'

Exception.

<sup>1</sup>(5) It shall not be lawful for the Chairman to exercise any power which, according to this Act, shall be exercised by the Municipal Council.<sup>2</sup> \* \*

Chairman's powers in emergencies.

**332-A.** Notwithstanding anything contained in sub-section (5) of section 32 it shall be lawful for the Chairman in cases of emergency to direct the execution of any work or the doing of any act which the Municipal Council is empowered to execute or do and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and to direct that the expense of executing such work or doing such act incurred as the emergency may require shall be paid from the Municipal Fund :

Provided that—

- (i) he shall not act under this section in contravention of any order of the Municipal Council prohibiting the execution of any particular work or the doing of any particular act, and
- (ii) every direction given under this section shall be reported at the next following meeting of the Municipal Council.

Execution of resolution on neglect of Chairman.

**33.** (1) If at any time it appears to the Collector of the District that <sup>4</sup>[the Chairman] has made default in carrying out any resolution of the Municipal Council, the Collector, <sup>5</sup>[after giving the Chairman a reasonable opportunity of explanation,] may by notice in writing require <sup>6</sup>[the Chairman] to carry out such resolution within a reasonable time to be specified in such notice, and he may, if <sup>7</sup>[the Chairman] omits to comply with such notice assume the execution of such resolution and pass all necessary orders accordingly.

(2) Any Collector taking action under this section shall, in a memorandum, record his reasons for such action and shall forthwith forward such memorandum to the Municipal Council for their information, and shall at the same time forward a copy thereof <sup>8</sup>[together with the explanation of the Chairman, if any,] to the Governor in Council who may pass such orders thereon as he may deem fit.

<sup>1</sup> Original sub-section (3) was re-numbered as sub-section (5) by Madras Act III of 1897, s. 28 (2).

<sup>2</sup> The words "at a meeting" repealed by Madras Act III of 1897, s. 3 (2), are omitted from this sub-section, and from the following sections, viz., 38, 39, 43, 44 (2), 48, 51, 103 (i), 144 (1), 158 (1), 161 (3), 191 (2), 235 (2), 236, 255 (1) and 278.

<sup>3</sup> S. 32-A was inserted by Madras Act III of 1897, s. 27.

<sup>4</sup> The words "the Chairman" were substituted for the words "any Chairman" by Madras Act III of 1897, s. 28 (1).

<sup>5</sup> These words were inserted by Madras Act III of 1897, s. 28 (1).

<sup>6</sup> & <sup>7</sup> The words "the Chairman" were substituted for the words "such Chairman" by Madras Act III of 1897, s. 28 (1).

<sup>8</sup> These words were inserted by Madras Act III of 1897, s. 28 (2).

**34.** (1) The Collector of the District wherein any Municipality is situated may— Control by Collector.

- (i) enter on and inspect, or cause to be entered on and inspected, any immoveable property or any work in progress under the control of any Municipal Council ;
- (ii) call for and inspect any document in the possession or under the control of any Municipal Council ;
- (iii) require such Municipal Council to furnish such statements, accounts, reports and copies of documents relating to their proceedings or duties as he may think fit to call for ; and
- (iv) record in writing, for the consideration of any Municipal Council, any observations he may think proper in regard to their proceedings or duties.

(2) The Governor in Council may, by notification, from time to time, authorize any public officer to exercise any one or more of the powers of a Collector under <sup>1</sup>[sub-section (1)] and may, in like manner, at any time modify or withdraw such authority. <sup>2</sup>[The Collector of the District, also, may, by a special order in writing in each case, direct the Revenue-officer in charge of the Division to exercise any of the powers referred to in clauses (i), (ii) and (iii) of sub-section (1).] Delegation of powers of Collector to other public officers.

**35.** <sup>3</sup>(1) The Governor in Council or the Collector of the District may by order in writing, suspend the execution of any resolution of any Municipal Council, or of any order issued by any Municipal Council or Chairman or cancel such resolution or order, or suspend or cancel any license or permission granted by any Municipal Council or Chairman, and may prohibit the doing of any act which is about to be done, or is being done in pursuance of or under the colour of this Act if, in his opinion, such resolution has not been legally carried or such resolution, order or act or the grant of such license or permission is in excess of the powers conferred by law or the execution of such resolution or order or the doing of such act or the continuance in force of such license or permission is likely to cause obstruction, injury or annoyance to any person lawfully employed, or danger to human life, health or safety, or is likely to lead to a riot or an affray. Power to suspend action under Act.

(2) When the Collector makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Governor in Council and the Municipal Council. The Governor in Council may thereupon rescind the order or <sup>4</sup>[after giving the Municipal Council a reasonable opportunity of explanation] direct that it continue in force. Collector shall forward copy of order to Governor in Council and Municipal Council.

<sup>1</sup> This word and figure were substituted for the words " this section " by Madras Act III of 1897, s. 29.

<sup>2</sup> These words were added by Madras Act III of 1897, s. 29.

<sup>3</sup> This sub-section was substituted for the original sub-section (1) by Madras Act III of 1897, s. 30 (1)

<sup>4</sup> These words were inserted by Madras Act III of 1897, s. 30 (2).

force with or without modification, permanently or for such period as he thinks fit.

Extraordinary powers of the Collector and the Revenue-officer in charge of a Division of a District in cases of emergency.

**36. (1)** In cases of emergency, <sup>1</sup>[the Collector of the District or the Revenue-officer in charge of the Division] may provide for the execution of any work, or the doing of any act, which the Municipal Council <sup>2</sup>[or the Chairman] is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be paid by the Municipal Council.

Expense may be recovered from Municipal Fund.

(2) If the expense is not so paid, such <sup>3</sup>[Collector or] Revenue-officer may make an order directing the person having the custody of the Municipal Fund to pay the same in priority to any other charges against such fund. Such person shall, so far as the funds to the credit of the Municipality admit, be bound to comply with such order.

Report to be made to Governor in Council.

<sup>4</sup>(3) Every case in which the powers conferred by this section are exercised shall be forthwith reported to the Governor in Council by the Collector or, through the Collector, by the Revenue-officer in charge of the Division, as the case may be, with the reasons in full for the exercise of such powers; and a copy of the letter shall at the same time be sent to the Municipal Council for information.

Powers of Governor in Council in case of default of Municipal Council or Chairman. Governor in Council may appoint person to perform duty.

**37. (1)** If at any time it appears to the Governor in Council that a Municipal Council <sup>5</sup>[or a Chairman] has made default in performing any duty imposed <sup>6</sup> \* \* by or under this or any other Act, the Governor in Council may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the Governor in Council may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, to such person by the Municipal Council.

Expense may be recovered from Municipal Fund.

(3) If the expense be not so paid, the Collector of the District, with the previous sanction of the Governor in Council, may make an order directing the person having the custody of the Municipal Fund to pay the same in priority to any other charges against such fund <sup>7</sup>[except charges for the service of authorized loans]. Such person shall, so far as the funds to the credit of the Municipality admit, be bound to comply with such order.

<sup>1</sup> These words were substituted for the original words by Madras Act III of 1897, s. 31 (1).

<sup>2</sup> These words were inserted by Madras Act III of 1897, s. 31 (1).

<sup>3</sup> These words were inserted by Madras Act III of 1897, s. 31 (2).

<sup>4</sup> This sub-section was substituted for the original sub-section (3) by Madras Act III of 1897, s. 31 (3).

<sup>5</sup> These words were inserted by Madras Act III of 1897, s. 32 (1).

<sup>6</sup> The words "on it" repealed by Madras Act III of 1897, s. 32 (1), are omitted.

<sup>7</sup> These words were inserted by Madras Act III of 1897, s. 32 (2).

38. (1) Every Municipal Council <sup>1</sup>\* \* may, from time to time, make rules consistent with this Act and with any rules framed by the Governor in Council in regard to the following matters :—

Rules as to conduct of business.

- (i) the time and place of their meetings ;
- (ii) the manner in which notice thereof shall be given ;
- (iii) the conduct of proceedings at meetings ;
- (iv) the division of duties among the members of the Municipal Council ;
- (v) the appointment and procedure of committees consisting wholly of a certain number of Municipal Councillors or partly of such Municipal Councillors and partly of other inhabitants of the Municipality, for the superintendence and management of educational institutions, hospitals, dispensaries, choultries or other institutions maintained by the Municipal Council ;
- (vi) the persons by whom receipts may be granted for money paid to the Municipal Council ; and
- (vii) all other similar matters.

<sup>2</sup>(2) No rule made under this section shall take effect until it has been published in the manner prescribed by the Governor in Council.

#### 4. MUNICIPAL SERVANTS.

39. The Municipal Council shall at their first meeting, and may from time to time, thereafter, <sup>1</sup>\* \* fix the number and salaries of all such permanent servants as they may think necessary and proper to assist in carrying out the purposes of this Act, and shall submit a statement of their proposals for the sanction of the Governor in Council in such form as he may from time to time prescribe, and he shall pass such orders thereon as he may deem fit.<sup>3</sup> \* \* \*

The Municipal Council to fix the number and salaries of their permanent servants with the sanction of the Governor in Council.

<sup>4</sup>39-A. (1) Subject to the approval of the Governor in Council, every Municipal Council may, at a meeting specially held for the purpose, appoint a person to be their Secretary, and may at a like meeting, and subject to the like approval, remove any person so appointed, and shall remove such person if at any time required by the Governor in Council to do so.

Every Municipal Council may appoint a Secretary subject to approval of Governor in Council.

(2) Unless the Governor in Council otherwise directs, every Municipal Council which has during three consecutive financial years realized an average annual income of Rs. 30,000 excluding extraordinary items of receipt shall in the next succeeding financial year appoint a Secretary.

Certain Municipal Councils shall appoint a Secretary unless Governor in Council otherwise directs.

For the purposes of this section the Governor in Council may declare what are extraordinary items of receipt.

<sup>1</sup> See last footnote to s. 32 (5).

<sup>2</sup> This sub-section was inserted by Madras Act III of 1897, s. 33.

<sup>3</sup> The proviso to this section repealed by Madras Act III of 1897, s. 3 (1), is omitted.

<sup>4</sup> S. 39-A was inserted by Madras Act III of 1897, s. 34.

Duties and  
powers of  
Secretary.

(3) (a) The person so appointed shall, if he be a member of the Municipal Council at the time of such appointment, cease to be such when he accepts the appointment and enters upon his duties as such Secretary.

(b) The Municipal Council shall, with the previous sanction of the Governor in Council, assign to the Secretary such salary as the Municipal Council may think fit.

(c) Every Secretary appointed under this section shall devote his full time to the service of the Municipal Council, and shall not engage in any trade or other occupation.

(d) Subject to the approval of the Governor in Council, the Chairman shall delegate to the Secretary his powers under section 42 as regards the servants of the Municipal Council employed in the Municipal office and in the collection of the Municipal revenues, and such of his other powers excepting those relating to the conduct of proceedings in meetings, as the Municipal Council may determine :

Provided that—

(i) when the Chairman has so delegated any or all of his powers he shall cease to exercise them himself ;

(ii) powers once delegated to the Secretary shall not be withdrawn without the sanction of Government.

Government  
servants  
employed by  
Municipal  
Council.

40. (1) The Governor in Council may, on the application of any Municipal Council, place the services of any Government servant at their disposal to be employed by them for the purposes of this Act. The Municipal Council shall pay any Government servant so employed the salary he may be entitled to receive under the rules of the branch of the Government service to which he belongs, and shall also pay the Governor in Council such contribution towards the pension of such servant as may be payable under the rules in that behalf in force for the time being.

Contribution  
by Govern-  
ment towards  
pay of  
Municipal  
servants.

(2) If such servant, while employed under the Municipal Council, or if any other servant of the Municipal Council, does any work for Government, the Governor in Council shall contribute to the Municipal Council so much of the salary of such servant as the Governor in Council may consider to be an equivalent for such work.

Dismissal of  
Government  
servants  
employed by  
Councils.

(3) No Government servant employed by the Municipal Council under this section shall be dismissed from such employment without the consent of the Governor in Council or until three months' notice in writing to that effect shall have been given to the chief controlling authority of the branch of the Government service to which such servant belongs.

Withdrawal  
of such  
servants.

(4) No Government servant employed under the Municipal Council shall, except in cases of emergency, be withdrawn from the service of the Municipal Council, without their consent, unless and until the Governor in Council shall have given three months' notice in writing to that effect to the Muni-



pal Council [or unless some other Government servant has been deputed to replace the one withdrawn].

<sup>2</sup>(5) Government servants employed under Municipal Councils shall be entitled to leave and other privileges in accordance with the regulations applicable to the department of the general administration to which they belong. Privileges of Government servants in Municipal employ.

**41.** Every Municipal servant, every contractor or agent, to whom the collection of any tax, toll, or other sum due to the Municipal Council is entrusted, and every person engaged in the collection of such tax, toll, or sum shall be deemed to be a public servant within the meaning of the <sup>3</sup>Indian Penal Code. Municipal servants, etc., public servants under Indian Penal Code.

XLV of 1860.

**42. (1)** The Chairman shall, subject to such rules as the Governor in Council may prescribe, appoint such permanent servants as shall have been provided for in the manner aforesaid, <sup>4</sup> \* \* \* and shall pay such permanent <sup>4</sup> \* \* servants from the Municipal Fund the salaries that may be fixed for them in the manner aforesaid <sup>4</sup> \* \* The Chairman to appoint servants subject to rules prescribed by the Governor in Council. Appointment of temporary servants in cases of emergency.

<sup>5</sup>(2) The Chairman may also in cases of emergency appoint such temporary servants as in his opinion may be required for the purposes of this Act, and may direct that the salaries of such temporary servants fixed as the emergency may require shall be paid from the Municipal Fund : Appointment of temporary servants in cases of emergency.

Provided that—

(i) he shall not act under this section in contravention of any order of the Municipal Council prohibiting the employment of temporary servants for any particular work, and

(ii) every appointment made under this sub-section shall be reported at the next following meeting of the Municipal Council.

<sup>6</sup>(3) The Chairman may, subject to the provision in section 40, sub-section (3), and to such control as may, from time to time, be prescribed by the Governor in Council, fine, suspend, <sup>7</sup>[reduce] or dismiss any of such <sup>8</sup>[servants] and appoint others in their stead. The Chairman may punish servants.

**43.** The Municipal Council <sup>9</sup>\*\* may, from time to time, make rules consistent with this Act and with any rules framed by the Governor in Council as to the following matters in respect of their servants :— Rules as to securities, pensions, etc.

(i) the servants who shall furnish security for the due performance of their duties ;

<sup>1</sup> These words were added by Madras Act III of 1897, s. 35 (1).

<sup>2</sup> This sub-section was added by Madras Act III of 1897, s. 35 (2).

<sup>3</sup> General Acts, Vol. I.

<sup>4</sup> Words repealed by Madras Act III of 1897, s. 36 (1), are omitted.

<sup>5</sup> This sub-section was inserted by Madras Act III of 1897, s. 36 (2).

<sup>6</sup> Original sub-section (2) was re-numbered as sub-section (3) by Madras Act III of 1897, s. 36 (2).

<sup>7</sup> The word "reduce" was inserted by Madras Act III of 1897, s. 36 (3).

<sup>8</sup> The word "servants" was substituted for the word "persons" by Madras Act III of 1897, s. 36 (3).

<sup>9</sup> See last footnote to s. 32 (5).

- (ii) the amount of such security ;
- (iii) the grant of leave to servants and the allowances to be paid to persons acting for such servants ;
- (iv) the period of service of all servants ;
- (v) the conditions under which such servants, or any of them, shall, on retirement, receive pensions, gratuities or compassionate allowances ;
- (vi) the amount of such pensions, gratuities or compassionate allowances (if any) ;
- (vii) the establishment of a Pension or Provident Fund by such servants ; and
- (viii) the rates at which, and the conditions under which, contributions shall be paid from the Municipal Fund towards such Pension or Provident Fund :

<sup>1</sup> Provided that no rules as to the matters mentioned in clauses (iii), (v), (vi), (vii) and (viii) shall be valid until they have been confirmed by the Governor in Council.

#### 5. MUNICIPAL CONTRACTS.

Delegation of authority to contract.

**44.** (1) A Municipal Council may delegate to <sup>2</sup>[the Chairman or a Committee consisting of two] or more of its members the power of making, on its behalf, any contract whereof the value or amount does not exceed Rs. 200.

Certain contracts to be sanctioned by the Municipal Council.

(2) In respect of a contract whereof the value or amount exceeds Rs. 200, the sanction of the Municipal Council for the making thereof shall be obtained <sup>3</sup>[\*\*\*] before the same is made.

Contractual powers of persons appointed by Government.

(3) Notwithstanding anything in the two preceding sub-sections, any person appointed by the Governor in Council to carry any work into execution on behalf of a Municipal Council may, subject to such control as the Governor in Council may prescribe, make such contracts as are necessary for the purpose of carrying such work into execution, to the extent of the sum provided for such work ; and the Municipal Council shall pay to the person so appointed such sums as may be required for the said purpose, to the extent aforesaid.

Made of executing contracts.

**45.** (1) Every contract made by, or on behalf of, a Municipal Council, whereof the value or amount exceeds Rs. <sup>5</sup>[100] shall be in writing, and, <sup>6</sup>[except in the case of contracts made under the provisions of sub-section (3) of section 44], shall be signed by two Municipal Councillors, one of whom shall be the Chairman <sup>7</sup>[or Vice-Chairman].

<sup>1</sup> This proviso was added by Madras Act III of 1897, s. 37.

<sup>2</sup> The original word "one" was omitted and these words were substituted by Madras Act III of 1897, s. 38 (1).

<sup>3</sup> See last footnote to s. 32 (5).

<sup>4</sup> This sub-section was added by Madras Act III of 1897, s. 38 (2).

<sup>5</sup> The figures "100" were substituted for the original figures "200" by Madras Act III of 1897, s. 39.

<sup>6</sup> These words were inserted by Madras Act III of 1897, s. 39.

<sup>7</sup> The words "or Vice-Chairman" were added by Madras Act III of 1897, s. 39.

(2) A contract executed or made otherwise than in conformity with the provisions of this and the last preceding section shall not be binding on the Municipal Council.

Contract made otherwise not binding.

46. No Municipal Councillor shall be personally liable in respect of any contract made, or for expense incurred, by or on behalf of the Municipal Council: but the funds from time to time in the hands of the Municipal Council shall be liable for, and chargeable with, all contracts and expenses duly made and incurred as aforesaid.

No Municipal Councillor to be personally liable for contracts.

### CHAPTER III.

#### TAXES AND TOLLS, AND MODE OF REALIZING THEM.

147. The taxes and tolls which may be levied for the purposes of this Act, are as follows:—

Levy of taxes and tolls.

- (i) A yearly tax on arts, professions, trades and callings, and on offices and appointments, at the rates specified in Schedule A;
- (ii) A yearly tax on buildings or lands or both, calculated as hereinafter provided;
- (iii) A yearly water and drainage tax on buildings or lands or both, calculated as hereinafter provided;
- (iv) A half-yearly tax on vehicles with springs, palanquins and animals, at rates not exceeding in any case those specified in Schedule B;
- (v) A half-yearly tax on carts and other vehicles without springs, at a rate not exceeding two rupees for each half-year in respect of every such vehicle;
- (vi) Tolls on vehicles and animals entering the Municipal limits, at rates not exceeding in any case those specified in Schedule D; <sup>2</sup>[and
- (vii) A monthly tax on private menial and domestic male servants, at a rate not exceeding two rupees per mensem for each such servant]:

<sup>1</sup> This section was substituted for the original s. 47 by Madras Act III of 1897, s. 40. The section in its application to Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended, shall be read with the addition of the two following clauses after clause (vi) and of the proviso at the end of the section:—

- (vii) a monthly tax on private menial and on domestic servants at a rate not exceeding two rupees per mensem for each such servant provided that within the said maximum, the rate of the tax may differ for different classes of servants; and
- (viii) a yearly lighting tax on buildings or lands or both, calculated on their annual value at a rate or rates not exceeding three per centum on such annual value;

Provided, further, that the lighting tax shall be levied only to enable the Municipal Council to provide for expenses connected with the lighting of the Municipality by means of gas or electricity, and that the proceeds of the said tax shall be devoted solely to defraying the said expenses—Madras Act II of 1907, s. 5 (1) (b).

<sup>2</sup> The provisions of clause (vii) and of sections 96-A to 96-E and 180 to 181-B were repealed in respect of Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended—Madras Act II of 1907, s. 3, *infra*.

Proviso as to levy of water and drainage tax.

Provided that the water and drainage tax shall be levied only to enable the Municipal Council to provide for expenses connected with the construction, maintenance, repair, extension or improvement of water or drainage works heretofore provided or hereafter to be provided, and that the proceeds of the said tax shall be solely devoted to defraying the said expenses.

Proviso as to levy of tax on servants. Municipal Council may raise funds from any of above sources.

<sup>1</sup>[Provided, further, that the tax on servants shall be levied in hill-stations, being Municipalities, only.]

**48.** The Municipal Council <sup>2</sup>\* \* may, from time to time, with the approval of the Governor in Council, determine to raise the funds required for the purposes of this Act from all, or any one or more of, the above sources, at a rate or rates not exceeding those specified in [this Act.]<sup>3</sup>

Governor in Council may direct the levy of taxes,

**49.** If, at any time, it seems advisable to the Governor in Council that the funds required for the purposes of this Act shall be raised in any Municipality from all, or any one or more of, the above sources, the Governor in Council may direct the Municipal Council of such Municipality to levy such taxes or tolls at any rate or rates, not exceeding the rates authorized by this Act, unless the Municipal Council shall show cause to the contrary within a month after the receipt of the order containing such direction. If the Municipal Council fail to show cause within the said time to the satisfaction of the Governor in Council, the taxes or tolls so directed to be levied shall be levied in such Municipality as if the levy of the same had been determined by the Municipal Council with the approval of the Governor in Council; provided that it shall be competent to the Governor in Council from time to time to cancel or modify such direction.

unless the Municipal Council show cause to the contrary,

and may cancel or modify such direction.

Municipal Council to issue notification intimating that tax, etc., will be levied.

Tax, etc., to be levied until cancellation of notification. Council may exempt persons unable to pay.

**50.** When the Municipal Council shall have determined, with the approval of the Governor in Council, to levy any tax or tolls, they shall at once issue a notification in the District Gazette and by beat of drum specifying the rate at which the tax or tolls are to be levied, and intimating to the inhabitants of the Municipality that such tax or tolls will be levied from a date to be specified in the notification, and such tax or tolls shall be levied in the manner hereinafter provided until such time as the said notification shall be modified or cancelled.<sup>4</sup> \* \* \* \*

**51.** The Municipal Council <sup>5</sup>\* \* may exempt, in whole or in part, from the payment of any tax under this Act, any person <sup>6</sup>[who is, in their opinion, unable], by reason of poverty, to pay the same, and they may, in like

<sup>1</sup> This proviso and sections 96-A to 96-E and 180 to 181-B were repealed in respect of Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended—Madras Act II of 1907, s. 3. *infra*.

<sup>2</sup> See last footnote to s. 32 (5), *supra*.

<sup>3</sup> These words were substituted for the original words by Madras Act III of 1897, s. 41, *infra*.

<sup>4</sup> The proviso to this section repealed by Madras Act III of 1897, s. 3 (1), is omitted.

<sup>5</sup> See last footnote to s. 32 (5), *supra*.

<sup>6</sup> These words were substituted for the original words by Madras Act III of 1897, s. 42.

manner, exempt, with the approval of the Governor in Council, any class of persons.

**52.** (1) The Chairman shall prepare, and keep, separate assessment books showing the persons and property liable to taxation under this Act. Chairman to maintain assessment books.

(2) If, at any time, it appears to the Municipal Council that any person or property has been inadequately assessed or improperly omitted from the assessment books, they may direct the Chairman to amend the said books in such manner as they may deem just; provided that no such direction shall be given unless the person concerned shall have been afforded a reasonable opportunity to show cause to the Municipal Council why the assessment books should not be amended as proposed. Council may direct Chairman to amend assessment books.

(3) The Municipal Council may, at any time, for the purpose of deciding whether action should be taken under sub-section (2), appoint a Committee, consisting of the Chairman and not more than two other Municipal Councillors, to scrutinize the assessment books. Appointment of Committee to scrutinize assessment books.

**52-A.** In the case of taxes payable by the Chairman of a Municipal Council, the original assessments shall be made by the Revenue-officer in charge of the Division in which the Municipality is situated, and appeals against such assessments shall lie to the Municipal Council. Assessment of taxes payable by Chairman.

**52-B.** (1) The Chairman shall give to every person making payment of a tax a receipt therefor signed by him or by some person duly authorised by him in that behalf. Receipts to be given for all payments of taxes.

(2) Such receipt shall specify—

- (i) the date of the grant thereof;
- (ii) the name of the person to whom it is granted;
- (iii) the tax in respect of which the payment has been made;
- (iv) the period for which the payment has been made; and
- (v) the amount in respect of which it is granted.

#### I. TAX ON ARTS, PROFESSIONS, TRADES AND CALLINGS.

**53.** If the Municipal Council notify, under section 50, that a tax on arts, professions, trades and callings, and on offices or appointments shall be levied every person who, within the Municipality, exercises, after the date specified in the said notification, any one or more of the arts, professions, trades or callings, or holds any one or more of the offices or appointments, specified in Schedule A, shall, subject to the provisions of section 59, pay in respect thereof the sum specified in the said Schedule as payable by persons of the class in which such person is placed. Payment of Profession-tax.

<sup>3</sup> *Explanation.*—A person in receipt of a pension paid from any source shall be deemed to be a person holding an office or appointment within the meaning of this section. Pensioners liable to tax.

<sup>1</sup> This section was substituted for the original s. 52 by Madras Act III of 1897, s. 43.

<sup>2</sup> Ss. 52-A and 52-B were inserted by Madras Act III of 1897, s. 44.

<sup>3</sup> This explanation was added by Madras Act III of 1897, s. 45.

Chairman to  
decide class.

**54. (1)** The Chairman shall decide in which of the said classes such person ought to be placed.

Chairman  
may revise.

**(2)** The Chairman may from time to time revise such classification.

Tax to be  
paid half-  
yearly.

**55.** The sum payable under section 53 shall be paid in two equal instalments, one for each half of the year; the instalment payable in respect of each half of the year shall be payable by any person who has, for sixty days, reckoned consecutively or from time to time, in such half-year, exercised such art, profession, trade or calling, or held any such office or appointment, within the Municipality.

Notice of  
non-pay-  
ment.

**56.** If, in any half-year, any person exercises any such art, profession, trade or calling, or holds any such office or appointment, for sixty days, without paying the sum due in respect of such half-year, the Chairman <sup>1</sup>[shall] serve upon such person a notice to pay such sum within fifteen days from the date of such service.

**57.** (*Chairman to grant receipt.*) *Repealed by Madras Act III of 1897, section 3 (1).*

Every mem-  
ber of a firm  
or undivided  
Hindu family  
to be sepa-  
rately liable.  
Persons  
coming under  
several  
designations,  
how assessed.

**58.** Every member of a firm or partnership, or of an undivided Hindu family, shall be personally and separately liable to the tax leviable under section 53.

Extent of  
liability for  
profession-  
tax in more  
than one  
Municipality.

**59.** A person who carries on more arts, professions, trades or callings, or holds more offices or appointments than one, or comes under more than one of the designations or classes mentioned in Schedule A, shall be chargeable under any one of such designations or classes on his aggregate income from all such sources.

**60.** If in any half-year any person exercises in more than one Municipality any such art, profession, trade or calling, or holds any such office or appointment, he shall be liable, subject to the provisions of section 55, to pay the tax leviable under section 53 in each of such Municipalities:

Provided that the tax payable in each such Municipality shall be fixed with reference to the income derived from the business carried on or the appointment held therein;

Provided further that no person who shall prove that he has paid the sum due on account of the said tax for the same half-year in any other Municipality shall be liable, by reason merely of change of business, appointment, residence or place of business, to pay more than the difference between such sum and the amount from which he claims exemption.

*Illustration 1.* A, a Sub-Collector, is transferred in the middle of a half-year from Municipality X to Municipality Y, where he continues to hold the appointment of Sub-Collector on the same salary. If A, before leaving X, paid the tax for the half-year during which he was transferred, he is not liable to pay the tax again for the same half-year in Y.

<sup>1</sup> The word "shall" was substituted for the word "may" by Madras Act III of 1897, s. 46.

<sup>2</sup> This section was substituted for the original s. 60 by Madras Act III of 1897, s. 47.

*Illustration 2.*—A, a Sub-Collector, is transferred in the middle of a half-year from X to Y on promotion to the rank of a Collector. If A, before leaving X, paid the tax leviable on him as Sub-Collector for the half-year during which he was transferred, he is liable to pay in Y only the difference between the tax payable by a person in receipt of the salary of a Sub-Collector and that payable by a person in receipt of the salary of a Collector.

*Illustration 3.*—B has simultaneously a shop in X and a shop in Y. The former brings him in an income of Rs. 100 a month and the latter an income of Rs. 50 a month. B is liable to pay Rs. 2 per half-year in X and Re. 1 per half-year in Y.

*Illustration 4.*—B derives a monthly income of Rs. 100 from a shop in X. In the middle of a half-year, after paying the tax of Rs. 2 in X, he closes his shop in X and opens one in Y. If, during the sixty days following the opening of the new shop, B derives therefrom a monthly income of Rs. 200, he is liable (as indicated in Illustration 2) to pay in Y for the half-year in which his shop was opened a further sum of Rs. 2. If, however, B derives a monthly income of less than Rs. 200 from the new shop during the said period of sixty days, he is not liable to pay in Y any tax for the said half-year.

**61.** The Chairman may, by notice, from time to time, require every owner or occupier of a building or of any land to forward to him, within a specified time, a list in writing, signed by him, of the names of all persons occupying such building or land and of their respective arts, professions, trades, callings, offices or appointments.

Power of Chairman to call on owners or occupiers for lists of persons liable to tax on arts, etc. Power of Chairman to call on employers, etc., for similar lists.

**62.** The Chairman may, in like manner, require—

- (i) every employer of labour,
- (ii) every head or secretary of a public or private office or of a firm or company, and
- (iii) every secretary, owner or manager of a club, hotel or boarding-house or of residential chambers,

to forward to him, within a specified time, a list in writing, signed by such employer, head, secretary, owner or manager, of the names of all persons employed by him, or employed in such office, firm or company, or resident in such club, hotel, boarding-house, or chambers, as the case may be, together with a statement of the respective salaries of the persons so employed and of the arts, professions, trades, callings, offices and appointments of the persons so resident. The Chairman may also, in like manner, require such employer, head, secretary, owner or manager to furnish such particulars relative to any Company of which he is the agent as may be required by the Chairman for the purposes of this Act.

## 2. TAXES ON BUILDINGS AND LANDS.

**63.** (1) If the Municipal Council notify, under section 50, that a tax shall be levied on buildings or lands or both in the Municipality, the Chairman shall impose such tax on all buildings or lands, or both, excepting (a)

Taxes on buildings and lands.

<sup>1</sup> This section was substituted for the original s. 62 by Madras Act III of 1897, s. 48.

<sup>2</sup> This section was substituted for the original s. 63 by Madras Act III of 1897, s. 49.

**Exceptiona.** light-houses, piers, wharves, jetties, choultries, hospitals, dispensaries and other buildings or lands, to the extent to which they are used for public, charitable or religious, but not residential purposes, (b) burial and burning grounds and (c) buildings or lands belonging to the Municipal Council.

**Rates at which said taxes may be levied.** (2) Except as provided in sub-section (3) of this section and in section 63-A the said tax shall be levied at such rate or rates, not exceeding in any case [eight and a half per centum] on the annual value of the buildings or lands or both upon which it is imposed, as the Municipal Council may have notified under section 50.

**In certain cases rate may be fixed with reference to area.** (3) In the case of—  
 (a) lands not occupied by buildings and not appurtenant to any building or attached thereto for use therewith as a garden or pleasure ground or for the pasturage of animals kept for private use, and  
 (b) lands occupied by native huts,

the Chairman may, subject to the approval of the Municipal Council and the sanction of the Governor in Council, impose a tax on such lands at an annual rate, not exceeding four annas for every eighty square yards thereof, in lieu of the tax referred to in sub-section (2) :

Provided that no tax shall be levied under this sub-section upon lands used solely for agricultural purposes.

**In such cases no tax to be levied on huts.** (4) When lands occupied by native huts are taxed in accordance with the provisions of sub-section (3), no tax shall be imposed under this section upon the huts standing thereon.

**Property valued at Rs. 6 a year and under exempted.** (5) The Chairman shall exempt from tax under sub-section (2) any building or land the annual value whereof is not more than six rupees, if it be the owner's sole property liable to tax under this section.

**Levy of tax on buildings at rate calculated on area covered.** **63-A.** With the sanction of the Governor in Council, the Municipal Council may substitute, in any portion of the Municipality, for the tax leviable on buildings at a percentage on their annual value, a rate calculated according to the area covered by such buildings. This rate shall be determined by the Municipal Council with the approval of the Governor in Council, and may vary with reference to the situation and description of the buildings.

**Tax payable in half-yearly instalments.** **64.** (1) The tax imposed upon buildings or lands under sections 63 and 63-A shall be payable by the owners thereof in two equal half-yearly instalments.

**Instalments when due.** (2) Subject to the provisions of sub-section (1) of section 73, the instalment for each half-year shall be payable within thirty days after the commencement of that half-year, unless a revision petition has been presented to the

<sup>1</sup> In respect of Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended these words shall be replaced by the words "ten per centum"—Madras Act II of 1907, s. 5 (1) (c).

<sup>2</sup> S. 63-A was inserted by Madras Act III of 1897, s. 50 *infra*.

<sup>3</sup> This section was substituted for the original s. 64 by Madras Act III of 1897, s. 51.



Chairman as hereinafter provided, in which case the payment may be postponed until fifteen days after the disposal of such petition.

**65.** (1) The gross annual rent at which a building or land might reasonably be expected to let from month to month or from year to year shall, for the purposes of assessment under this Act, be deemed to be the annual value of such building or land. Annual value of buildings and lands how to be ascertained.

(2) The value of a building or land so estimated shall not include the value of any furniture or machinery therein or thereon. Value not to include furniture or machinery.

1 \* \* \*

**66.** (1) When the Municipal Council has notified that a tax shall be levied under section 63 or 63-A, the Chairman shall assess the amounts payable in respect of all property liable to the tax. The assessment books shall show in distinct columns, in respect of all property assessed to the tax— Chairman to assess amounts payable and enter certain particulars in assessment books.

- (i) the name of the owner thereof;
- (ii) the name of the occupier thereof;
- (iii) the designation thereof, if any;
- (iv) the name of the division and street, if any, in which it is situated and any survey or other number which it bears;
- (v) the annual value thereof, or the area thereof, or the area and description thereof, as the case may be; and
- (vi) the amount of tax assessed thereon.

(2) The assessment books shall be completely revised by the Chairman at least once in every five years, and the Chairman may amend them at any time by inserting therein, or removing therefrom, any property or by altering the amount of tax leviable in respect of any property. Periodical and occasional revision of assessment books.

(3) Every general assessment under sub-section (1) and every general revision of the assessment books and every amendment thereof under sub-section (2) shall, subject to the provisions of section 73, have effect from the beginning of the financial year following that in which it is made. Date from which assessments and revisions to have effect.

**67.** (*Present assessments to be taken as made under this Act.*) Repealed by Madras Act III of 1897, section 3(1).

**68.** When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said books, and in any notice or other proceeding under this Act, as the "owner" or the "occupier" of the property on which the tax is assessed, without further description. Owner or occupier to be designated as such if name unknown.

**69.** When assessment books have been for the first time prepared, and whenever they have undergone a general revision, the Chairman shall, before the close of the financial year in which the said books have been so prepared or revised, notify by beat of drum and by a notice published in the District Gazette that, on a specified date, not being less than thirty days from the date Date on which revision petitions will be heard to be notified in certain cases.

<sup>1</sup> Sub-section (3) of this section repealed by Madras Act III of 1897, s. 3 (1), is omitted.

<sup>2</sup> This section was substituted for the original s. 66 by Madras Act III of 1897, s. 52.

<sup>3</sup> Ss. 69 to 69-D were substituted for the original s. 69 by Madras Act I of 1897, s. 53.

of the later of such notifications, he will be prepared to consider revision petitions presented to him within the said period of thirty days.

Special notice of date for hearing revision petitions to be given in certain cases.

**69-A.** (1) In every case in which property is for the first time assessed, and in every case in which the tax payable in respect of property is increased otherwise than in consequence of a general enhancement in the rate at which the tax is leviable, the Chairman shall intimate by special notice to the owner or occupier of such property that he will be prepared to consider any revision petition which may be presented to him in respect of such assessment or increase within thirty days after the date of service of the said notice. In the case of an increase of tax, the special notice shall further contain a brief statement of the reasons therefor.

Exception.

(2) Nothing contained in this section shall apply to persons affected by a direction given by the Municipal Council under sub-section (2) of section 52.

Petitions for revision on certain grounds may be made at any time.

**69-B.** Any person may at any time, not being less than thirty days before the end of a financial year, move the Chairman by revision petition to reduce the tax to which he is liable for the forthcoming financial year, on the ground that the annual value of the property in respect of which the tax is imposed has decreased since the general assessment or last general revision of the assessment books.

Petitioners to have reasonable opportunity to represent case.

**69-C.** When a revision petition is presented to the Chairman, the Chairman shall, unless the date upon which petitions will be considered has already been publicly notified under section 69, intimate to the petitioner the date upon which his petition will be considered, and no petition shall be disposed of unless the petitioner has been given a reasonable opportunity to appear, either in person or by authorized agent, and to represent his case.

Disposal of revision petitions.

**69-D.** (1) Immediately after the disposal of a revision petition, the Chairman shall inform the petitioner or his authorized agent, either orally or in writing, of the orders passed thereon, and shall direct him to pay the amount fixed on revision within fifteen days.

(2) The assessment books shall be corrected with reference to the Chairman's orders in revision, and such correction shall not be deemed to be an amendment within the meaning of sub-section (3) of section 66.

**70.** (*Persons to be allowed to inspect assessment books*) and

**71.** (*Amendment of assessment books.*) *Repealed by Madras Act III of 1897, section 3(1).*

Refund on account of vacant buildings.

**72.** (1) If any building has been vacant for not less than sixty consecutive days in a half year, the Chairman shall, on demand by the owner, refund so much, not exceeding one-half, of the tax paid for that half-year as is proportionate to the number of days during which such building has been vacant.

(2) Every demand for a refund under this section shall be made during the half-year in respect of which the refund is sought or in the following half-year, and not afterwards; and no person shall be entitled to such refund unless he

<sup>1</sup> See footnote to s. 69 *supra*.

<sup>2</sup> This section was substituted for the original s. 72 by Madras Act III of 1897, s. 54.

at or about the time that the building became vacant, gave notice of such vacancy to the Chairman.

73. (1) When any building is built, rebuilt or enlarged, the owner shall give notice thereof to the Chairman within fifteen days from the date of completion of such building, rebuilding or enlargement, or from the date of occupation of such building, whichever date happens first. <sup>Notice to be given of buildings newly built or rebuilt.</sup> [The Chairman shall, on receipt of the said notice, assess the tax leviable in respect of the building, and the instalment for the half-year in which the assessment is made shall be payable within thirty days after the date of service of the notice issued under section 69-A, or within fifteen days after the disposal under section 69-C of any revision petition which may be presented: provided that, if such date of completion or occupation falls within the last two months of a half-year, no tax or enhanced tax, as the case may be, shall be levied in respect of the building for that half year.] <sup>Procedure after receipt by Chairman of notice.</sup>

<sup>2</sup>(2) When any building is completely demolished or destroyed, the owner thereof may give notice to the Chairman of such demolition or destruction; and, until such notice is given, such owner shall be liable, at the discretion of the Chairman, to payment of all taxes which would have been leviable had such building not been demolished or destroyed. <sup>Remission or refund when building is destroyed.</sup> If the said notice is given within the first two months of a half-year, no tax shall thereafter be levied in respect of the building, and any tax which may have been levied for that half-year shall be refunded.

74. (*New assessment books need not be prepared every year.*) Repealed by Madras Act III of 1897, section 3(1).

### 3. WATER AND DRAINAGE TAX.

75.<sup>3</sup> [(1) If the Municipal Council notify, under section 50, that a water and drainage tax shall be levied on buildings or lands or both, at a percentage on their annual value, such tax shall be levied at the rate or rates so notified but not exceeding in any case<sup>4</sup> [eight per centum] on the annual value of the buildings or lands or both upon which the tax is imposed. All the provisions of sections 63, 63-A, 64, 65, 66, 68, 69, 69-A, 69-B, 69-C, 69-D, 72 and 73 shall, *mutatis mutandis*, apply to the water and drainage tax; provided that no such tax shall be levied upon any land exclusively used for agricultural purposes and not deriving any benefit from the water or drainage works on account of which the tax is imposed.] <sup>Levy of water and drainage tax.</sup>

(2) The Governor in Council may, from time to time, by notification, exempt any part of a Municipality from the payment of the water-tax or any <sup>Power to exempt any part of a Municipality from water-tax.</sup>

<sup>1</sup> These words were added by Madras Act III of 1897, s. 55 (1).

<sup>2</sup> This sub-section was substituted for the original sub-section (2) by Madras Act III of 1897, s. 55 (2).

<sup>3</sup> This sub-section was substituted for the original sub-section (1) by Madras Act III of 1897, s. 56.

<sup>4</sup> In respect of Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended, these words shall be replaced by the words "ten per centum"—Madras Act II 1907, s. 5 (1) (d).

part thereof and may also in like manner, from time to time, cancel such exemption.

**76.** (*Water may be cut off on neglect to pay tax and expense recovered.*)  
*Repealed by Madras Act III of 1897, section 3 (1).*

#### 4. TAX ON VEHICLES WITH SPRINGS, PALANQUINS, AND ANIMALS.

Tax on  
vehicles and  
animals.

**77.** (1) If the Municipal Council notify, under section 50, that a half-yearly tax shall be levied on the vehicles and animals <sup>1</sup>[kept or let out for hire within the Municipality], the Chairman shall impose such tax at the rates specified in such notification on the vehicles and animals mentioned in the said notification :

Provided that the Chairman may exempt from taxation under this section, any vehicle used solely for the conveyance of children.

Tax, when  
due.

(2) The amount payable for each half-year shall be payable by any person in whose possession or custody or control any such vehicle or animal may be found so soon as it has been for <sup>2</sup>[fifteen] days in such half-year kept or let out for hire <sup>3</sup> \* \* \* within the Municipality.

Exemption  
in certain  
cases.

(3) No person by reason of transfer of ownership shall be liable under this section <sup>4</sup>[in any Municipality] in respect of any vehicle or animal for which a license relating to the half-year in which ownership was transferred has already been given in the manner hereinafter provided in <sup>5</sup>[the same Municipality].

General  
exemptions.

**78.** The tax payable under the preceding section shall not be imposed on—

- <sup>6</sup>(i) Vehicles and animals belonging to Government and used for military purposes ;
- (ii) Vehicles and animals belonging to the Municipal Council ;
- (iii) Animals exempt from Municipal tax under section 25 of the Indian Volunteers Act, 1869<sup>7</sup> ;
- <sup>6</sup>(iv) Vehicles and animals kept within the Municipality for use in the discharge of their out-door duties therein by such members of the Police Force as are employed on such duties or by such servants of the Municipality similarly employed as the Municipal Council may, with the approval of the Governor in Council, designate : provided that not more than one vehicle and two animals for each such member or servant shall be exempt under this clause from taxation ; and

XX of 1869.

<sup>1</sup> These words were substituted for the original words by Madras Act III of 1897, s. 57 (1).

<sup>2</sup> The word " fifteen " was substituted for the figures " 30 " by Madras Act III of 1897, s. 57 (2).

<sup>3</sup> The words " or used " repealed by Madras Act III of 1897, s. 57 (2), are omitted.

<sup>4</sup> These words were inserted by Madras Act III of 1897, s. 57 (3).

<sup>5</sup> These words were substituted for the original words by Madras Act III of 1897, s. 57 (3).

<sup>6</sup> Clauses (i) and (iv) were substituted for the original clauses (i) and (iv) by Madras Act III of 1897, s. 58 (1) and (2), respectively.

<sup>7</sup> General Acts, Vol. II.

- (v) Vehicles and animals kept solely for sale by builders and dealers, or vehicles and animals which have not, during the half-year, been used.

**79.** The Chairman may, subject to the approval of the Municipal Council, compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping vehicles and animals for sale or hire, for a certain sum to be paid in respect of such vehicles and animals in lieu of the taxes specified in Schedule B. Chairman may compound with livery stable-keepers and others.

**80.** The Chairman or any officer authorized by him in that behalf shall send to every person supposed <sup>1</sup>[to have become liable] to the payment of the tax payable under section 77 a printed table in the form contained in Schedule C or to the like effect, to be filled up with such information respecting the vehicles and animals kept by him as the Chairman considers necessary for the assessment of the tax. Blank forms to be sent to persons liable to tax.

**81.** Such forms shall be filled up with such information in writing, and signed and dated, and returned within one week of its receipt to the Municipal office by the person to whom it has been sent. Forms to be filled up and returned.

**82.** If any person to whom a form has been sent under section 80 omits, within one week of its receipt, to fill it up, and to date, sign and return it to the Municipal office, or if he returns the said form so filled up, dated and signed but omits, within the said period, to pay the tax for which he is liable, the Chairman shall serve on such person a notice requiring him to pay within fifteen days from the service of such notice the sum for which he is believed to be, or is, liable under section 77. If form not returned or payment not made, notice to pay to be served.

**83.** On receiving the amount of the tax payable in respect of any vehicle or animal, the Chairman, or some person duly authorized by him in that behalf, shall give to the person paying the same a license for such vehicle or animal for the period in respect of which the money has been received. On payment of tax, Chairman to give license.

**84.** (1) Every person who has received such license shall, at all reasonable times during the said period, produce such license when required to do so by the Chairman or any person duly authorized in writing by him to demand its production. Licensee bound to produce his license.

(2) Every person failing to comply with such requisition shall be liable to a fine not exceeding Rs. 5. Penalty.

##### 5. TAX ON CARTS AND OTHER VEHICLES WITHOUT SPRINGS.

**85.** <sup>3</sup>(1) If the Municipal Council notify, under section 50, that a half-yearly tax shall be levied on carts and other wheeled vehicles without springs kept or let out for hire within the Municipality, the owner of every such cart Tax on carts, etc.

<sup>1</sup> These words were substituted for the original words by Madras Act III of 1897, s. 59.

<sup>2</sup> This section was substituted for the original s. 82 by Madras Act III of 1897, s. 60.

<sup>3</sup> Sub-sections (1) and (2) were substituted for the original sub-sections (1) and (2) by Madras Act III of 1897, s. 61(1) and (2), respectively.

or vehicle shall register the same and pay the tax due on account thereof upon such date as the Chairman may notify under sub-section (3).

Registry and numbering of carts, etc.

(2) Such carts and other vehicles shall be registered in the Municipal Office with the name and residence of the owner, and shall bear the number of such registration in such manner as the Municipal Council direct.

Registration half-yearly.

(3) The registration of carts and other vehicles shall be made and the numbers assigned half-yearly upon such days as the Chairman shall notify.

Exception.

<sup>1</sup>(4) This section shall not apply to vehicles belonging to Government and used for military purposes, to vehicles belonging to the Municipal Council or to vehicles kept solely for sale by builders and dealers.

Person becoming immediately possessed to register.

**86.** Any person <sup>2</sup> \* \* \* becoming possessed, within the limits of the Municipality, of any such cart or vehicle which has not been registered for the then current half-year shall, within <sup>3</sup>[twenty] days of so <sup>2</sup> \* \* \* becoming possessed, register the same; and the Chairman shall grant a certificate of registration in every such case on payment of the tax, for the current half-year.

No person bound to register unless he has possession for fifteen days.

**86-A.** <sup>5</sup>\* No person shall be bound <sup>6</sup>\* \* \* to register any cart or other vehicle which has been owned by him or has been in his possession for less than fifteen days in any half-year.

**87.** (*Register to be open to inspection.*) *Repealed by Madras Act III of 1897, section 3 (I).*

Effect of omitting to keep number affixed.

**88.** Whoever omits to affix, and to keep affixed, to any such cart or other vehicle the registration number prescribed in section 85 shall be deemed to have failed to register the same.

Unregistered cart, etc., liable to seizure.

**89.** The Chairman, or any person duly authorized by him in that behalf, may at any time seize and detain any cart or vehicle not registered as required by section 85, provided the same be not employed at the time of seizure in the conveyance of any passengers or goods.

Procedure after seizure of vehicle.

**90.** (1) If the cart or other vehicle seized under section 89 be not claimed within ten days from the date of seizure, the Chairman may direct that such cart or vehicle shall be sold by public auction, and that the proceeds of the sale shall be applied to the payment of (i) the tax due on the cart or other vehicle sold, (ii) such penalty not exceeding the amount of the said tax as the Chairman may direct, and (iii) a sum of one rupee on account of charges incurred in connection with the seizure, detention and sale.

(2) If the owner of the cart or other vehicle seized under section 89, appear within ten days from the date of seizure and claim the same, it shall be returned to him on payment of (i) the tax due thereon, (ii) such penalty not

<sup>1</sup> Sub-sections (1) and (4) were substituted for the original sub-sections (1) and (4) by Madras Act III of 1897, s. 61 (1) and (2), respectively.

<sup>2</sup> The words "owning or" repeated by Madras Act III of 1897, s. 62 (1), are omitted.

<sup>3</sup> The word "twenty" was substituted for the word "fifteen" by Madras Act III of 1897, s. 52 (1).

<sup>4</sup>, <sup>5</sup>, <sup>6</sup>. Sub-section (2) of s. 86 was renumbered as s. 86-A, with the words "but" and "under this section" omitted, by Madras Act III of 1897, s. 62 (2).

<sup>7</sup> This section was substituted for the original s. 90 by Madras Act III of 1897, s. 63.

exceeding the amount of the said tax as the Chairman may direct, and (iii) a sum of eight annas on account of charges incurred in connection with the seizure and detention.

#### 6. TOLLS ON VEHICLES AND ANIMALS ENTERING MUNICIPAL LIMITS.

**91.** (1) If the Municipal Council notify, under section 50, that tolls shall be levied upon the vehicles and animals entering the municipal limits, such tolls shall be levied at the rates mentioned in the notification.

Tolls on vehicles and animals entering Municipal limits.

(2) The Chairman may, subject to the approval of the Municipal Council, compound for any period, not exceeding one year, with persons living outside the Municipality for a sum to be paid in lieu of all tolls payable by them under the provisions of this Act, and shall issue licenses for the vehicles or animals of such persons.

Chairman may compound with persons living outside Municipal limits.

<sup>1</sup>(3) No tolls shall be levied for the passage of vehicles or animals—

No tolls to be levied in certain cases.

(a) belonging to the Municipal Council;

(b) conveying <sup>2</sup> \* \* \* \* Police-officers in uniform, Municipal servants on duty, or persons or property in the custody of such officers or servants; or

(c) licensed or registered by the Municipal Council, during the period for which they have been so licensed or registered.

**92.** (1) The Municipal Council shall construct toll-bars and gates and gate-keepers' stations, and may place the collection of such tolls under the management of such toll-collectors as may appear to them proper, or may farm out such tolls on such terms and subject to such conditions as they may deem fit <sup>3</sup> \* \* \*

Toll-bars and farming of tolls.

(2) The tolls authorized by this section shall be leviable only on vehicles and animals entering Municipal limits through the toll-bars, gates or stations constructed under sub-section (1).

Tolls where leviable.

(3) <sup>4</sup>A table of the tolls leviable shall be put up at every toll-bar, gate or station, by the Municipal Council; such table shall be legibly written or painted in English words and figures and in the vernacular language of the district.

Table of tolls to be exhibited.

**93.** If any person shall, with any carriage, cart or animal, go off or pass from any <sup>5</sup>[street] on which a toll-bar, gate or gate-keeper's station has been constructed under the provisions of section 92 through or over any land adjoining thereto, such land not being owned or occupied by such person and not being a public <sup>5</sup>[street], with intent to evade the payment of any toll

Penalty for evading tolls.

<sup>1</sup> This sub-section was substituted for the original sub-section (3) by Madras Act III of 1897 s. 64.

<sup>2</sup> The words "troops, military stores and baggage, military and" were repealed by s. 8 of the Indian Tolls (Army) Act, 1901 (II of 1901).

<sup>3</sup> Words repealed by Madras Act III of 1897, s. 65 (1), are omitted.

<sup>4</sup> These words were substituted for the original words by Madras Act III of 1897, s. 65 (2).

<sup>5</sup> The word "street" was substituted for the word "road" by Madras Act III of 1897, s. 66.

leviable under the provisions hereinbefore contained, such person shall be liable to a fine not exceeding Rs. 50 and shall also pay the amount of the toll and costs of prosecution.

No more than one payment in twenty-four hours.

**94.** No more than one payment of toll shall be demanded in any one Municipality in respect of any vehicle or animal in any one period of twenty-four hours counted from sunrise to sunrise, and, on such payment being made, a receipt shall be granted by the person appointed to collect the toll <sup>1</sup>on behalf of the Municipal Council or, if the tolls have been farmed out, of the toll-farmer; such receipt shall be in such form as the Municipal Council may from time to time prescribe.

In case of non-payment of toll, vehicle, etc., may be seized.

**95.** (1) If the toll leviable is not paid on demand, the person appointed to collect it as aforesaid may seize and detain such portion of the appurtenances or load of the vehicle or animal in respect of which the toll, or any portion thereof, is due as will, in his opinion, suffice to defray the amount so due, and, in the absence of such appurtenances or load, may seize and detain the said vehicle or animal.

Notice of intended sale.

(2) All property seized under sub-section (1) shall be sent at once to the Chairman or to such person as may have been authorized by him to receive and sell property so seized, and the Chairman or person authorized as aforesaid shall forthwith give notice to the owner of the property seized, or, if the owner is not known or is not resident within the Municipality, to the person who was in charge of the said property at the time when it was seized, and, if he is not found, publish by beat of drum that, after the expiration of two days, exclusive of Sunday, from the date of service or after the said publication of such notice, he will sell the said property by auction at a place to be specified in the notice.

Sale shall be stopped if payment tendered.

**96.** <sup>3</sup>(1) If, at any time before the sale has begun, the person to whom notice has been given as provided in sub-section (2) of section 95, or the owner of the property seized, tenders to the Chairman, or other person authorized as aforesaid (a) the amount due on account of the toll and (b) a sum of four annas on account of charges incurred in connection with the seizure and detention, the property seized shall be forthwith released.

Sale-proceeds to discharge toll and expenses.

(2) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of <sup>4</sup>[(i) the amount due on account of the toll, (ii) such penalty not exceeding the amount of toll as the Chairman may direct, and (iii) a sum of eight annas on account of charges incurred in connection with the seizure, detention and sale].

<sup>1</sup> These words were inserted by Madras Act III of 1897, s. 167.

<sup>2</sup> This section was substituted for the original s. 95 by Madras Act III of 1897, s. 68.

<sup>3</sup> This sub-section was substituted for the original sub-section (1) by Madras Act III of 1897, s. 69 (1).

<sup>4</sup> These figures and words were substituted for the original words by Madras Act III of 1897, s. 69 (2).



## 7. TAX ON SERVANTS.

**196-A.** If the Municipal Council notify, under section 50, that a monthly tax shall be levied upon private menial and domestic male servants, the Chairman shall impose such tax at the rate specified in such notification upon all employers of such servants who have not paid during the then current financial year, and who are not liable to pay, any of the taxes specified in clauses (i), (ii) and (iii) of section 47. Levy of tax on servants.

**196-B.** The tax on servants shall be payable in each month for each servant employed for not less than five days in such month and, if it remains unpaid at the end of the said period of five days, the Chairman shall serve upon the employer a notice requiring him to pay the sum due within three days from the date of such service. Tax when due.

**196-C.** The Chairman may, by notice, require every secretary, owner or manager of a club, hotel or boarding-house or of residential chambers to forward to him, periodically or at any time, a list in writing, signed by such secretary, owner or manager, of the private menial and domestic male servants employed by every person resident in such club, hotel, boarding-house or chambers. Chairman may require secretaries of clubs, etc., to furnish lists of servants.

**196-D.** Every person who has paid any sum under section 96-B and who, during the course of the same financial year, pays, in the same Municipality, any of the taxes specified in clauses (i), (ii) and (iii) of section 47 shall be entitled to a refund of the sum paid on account of the tax on servants. Refund of tax, when claimable.

**196-E.** In case of doubt, the Governor in Council shall have power to decide whether a Municipality is a hill-station within the meaning of the second proviso to section 47. Governor in Council to decide what is a hill-station.

## 8. APPEALS.

**197.** (1) No appeal shall lie to the Municipal Council in respect of the imposition of taxes except against— Appeals to the Municipal Council in respect of taxes.

- (i) assessment by the Revenue-officer in charge of the Division under section 52-A ;
- (ii) the Chairman's proceedings under section 54,
- (iii) the Chairman's order under section 69-C upon a revision petition ;
- (iv) the imposition by the Chairman of any tax on any vehicle or animal or of the tax on servants.

(2) The Municipal Council may, of their own motion or otherwise, cancel or modify any order passed by the Chairman reducing or remitting a tax. Council may cancel Chairman's order.

**98.** The appeal shall be made in writing, and shall set forth concisely and under distinct heads the grounds of objection to the decision or other Form of appeal.

<sup>1</sup> Ss. 96-A—96-E were inserted by Madras Act III of 1897, s. 70. See also the last footnote to s. 47 *supra*.

<sup>2</sup> This section was substituted for the original s. 97 by Madras Act III of 1897, s. 71.

proceedings appealed against and shall be heard and disposed of by the Municipal Council.

Limitation as to appeal.

**99.** No appeal to the Municipal Council shall be heard—

(i) unless it be presented at the Municipal office—

- (a) within fifteen days from the date of the service of the notice referred to in sections 56 and 82 ; or
- (b) within fifteen days from the date upon which the tax became payable under sections 64, 73, 85, or 86 ; or
- (c) within three days from the date of the service of the notice referred to in section 96-B :

Provided the Municipal Council may admit an appeal within fifteen days after the time prescribed in this section, if cause be shown to their satisfaction for not preferring it within the prescribed time ; and

(ii) unless (except when the Chairman otherwise directs on the ground of poverty) the tax in respect of which the appeal is presented has been deposited at the Municipal office on or before the day upon which the appeal is presented.

Assessment books to be corrected in accordance with orders of Council. If tax decreased, refund to be made. Assessment, etc., when to be final.

**100.** <sup>2</sup>[The assessment books maintained under section 52 shall be corrected in accordance with any orders passed by the Municipal Council on an appeal presented under section 97, and such correction shall not be deemed to be an amendment within the meaning of sub-section (3) of section 66.] In the event of the amount of any tax being decreased or remitted by the Municipal Council, the Chairman shall grant a refund accordingly.

**101.** The assessment or demand of any tax, when no appeal is made as hereinbefore provided, and the adjudication of an appeal by the Municipal Council, shall be final.

#### 9. COLLECTION OF TAXES.

Before distraint, bill to be presented in certain cases.

**102.** (1) When any tax in respect of which no notice has been served or direction given as provided in sections 56, 69-D, 82 and 96-B is due from any person, the Chairman shall serve upon such person a bill for the sum due, before he proceeds to enforce the provisions of section 103.

(2) Such bill shall be signed by the Chairman and shall contain—

- (i) a statement of the period and a description of the occupation, property or thing for which the tax is charged ; and
- (ii) a notice of the liability incurred in default of payment.

Recovery of sum due by distraint.

**103.** (1) If the amount due on account of any tax is not paid within fifteen days from the service of the notice or bill or the giving of the direction prescribed in sections 56, 69-D, 82 and 102, or within three days from the

<sup>1</sup> This section was substituted for the original s. 99 by Madras Act III of 1897, s. 72.

<sup>2</sup> These words were inserted by Madras Act III of 1897, s. 73.

<sup>3</sup> This section was substituted for the original s. 102 by Madras Act III of 1897, s. 74.

<sup>4</sup> This section was substituted for the original s. 103 by Madras Act III of 1897, s. 75.

service of the notice prescribed in section 96-B, and if the person from whom the tax is due has not shown cause to the satisfaction of the Chairman why the same should not be paid, the Chairman may recover, by the distraint and sale of the moveable property of the defaulter, the amount due on account of the tax, together with the warrant fee and the distraint fee leviable under sections 104 and 108, respectively, and with such further sum as will satisfy the probable expenses incidental to the detention and sale of the property so distrained.

(2) If, for any reason, the distraint, or a sufficient distraint, of the defaulter's property is impracticable, the Chairman may prosecute the defaulter before a Magistrate. Prosecution in default of distraint.

(3) Nothing herein contained shall preclude the Municipal Council from suing in a Civil Court for any amount due to them under this Act. Council may also sue.

**104.** In order to the distraint and sale of property under sub-section (1) of section 103, the Chairman shall issue a warrant in the form prescribed in Schedule E or in some similar form; and, for each such warrant, a warrant fee of two annas shall be leviable. Warrant for distraint.

**105.** The officer charged with the execution of the warrant shall, before making the distraint, demand payment of the tax due and of the warrant fee leviable under section 104. If, thereupon, the said tax and fee are paid, no distraint shall be made, but, if not, the said officer shall— Procedure in making distraint.

- (i) seize such moveable property of the defaulter as he may think necessary;
- (ii) make an inventory of the property seized; and
- (iii) give to the person in possession of the property seized at the time of seizure a notice in the form prescribed in Schedule F or in some similar form.

**106.** Whenever under the provisions of this Chapter any property is distrained, seized or sold in consequence of the non-payment of any tax, toll or fee due, such distraint, seizure and sale shall be effected subject to <sup>3</sup>[the provisions of section 271 of the Code of Civil Procedure <sup>4</sup>and to] the conditions, exceptions and exemptions hereinafter provided. Conditions of distraint and sale.

(i) The following property shall not be liable to distraint :— Exception.

- (a) the necessary wearing apparel <sup>3</sup>[and bedding] of the defaulter, his wife, and children,
- (b) the tools of artisans, and
- (c) where the defaulter is an agriculturist, his implements of husbandry and such cattle <sup>3</sup>[and seed grain] as may, in the opinion of the person making the distraint, be necessary to enable the defaulter to earn his livelihood.

<sup>1</sup> This section was substituted for the original s. 104 by Madras Act III of 1897, s. 76.

<sup>2</sup> This section was substituted for the original s. 105 by Madras Act III of 1897, s. 77.

<sup>3</sup> These words were inserted by Madras Act III of 1897, s. 78.

<sup>4</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), Genl. Acts, Vol. VI.

Limit.

(ii) The <sup>1</sup>[distrain] shall not be excessive, that is to say, the property distrained shall be, as nearly as possible, proportionate to the amount due <sup>2</sup>[on account of the tax, the warrant fee and distraint fee and the probable expenses incidental to the detention and sale of the said property].

Sale of  
distrained  
property.

<sup>3</sup>107. (1) If the amount due by the defaulter on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention of the property is not paid within the period of seven days mentioned in the notice given under section 105, and if the distraint warrant is not suspended by the Chairman, the property seized or a sufficient portion thereof shall be sold by public auction under the orders of the Chairman, who shall apply the proceeds of the sale to the payment of the amount due on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention and sale of the property, and shall return to the person in whose possession the property was at the time of seizure any property or sum which may remain after the sale and the application of the proceeds thereof as aforesaid. If the proceeds of the sale are insufficient for the payment of the amount due on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention and sale of the property, the Chairman may again proceed as provided in sub-section (1) of section 103 in respect of the sum remaining unpaid.

Sale of  
perishable  
article.

(2) When the property seized is subject to speedy and natural decay, the Chairman may sell it at any time before the expiry of the said period of seven days, unless the amount due is sooner paid.

Objections  
to sale to be  
considered.

(3) The Chairman shall consider any objections to the distraint of any property which are made within the said period of seven days and may postpone the sale pending investigation thereof. If the Chairman decides that the property attached was not liable to distraint, he shall return it or, if it has already been sold under sub-section (2), the proceeds of the sale thereof to the person appearing to be entitled thereto and may again proceed as provided in sub-section (1) of section 103; and all fees and expenses connected with the first distraint and sale shall be recoverable from the defaulter, if it shall appear to the Chairman, that he wilfully permitted the distraint of property which to his knowledge was not liable to distraint.

Distraint  
fees.

108. (i) <sup>4</sup>[Distraint] fees shall be payable <sup>5</sup>\* \* under this Act at such rates, not exceeding those mentioned in Schedule G, as may be from time to time determined by the Municipal Council <sup>6</sup>\* \*

(ii) Such fees shall not be held to include the <sup>7</sup>[expenses incidental to the detention of any property] distrained under this Act.

<sup>1</sup> The word "distrain" was substituted for the word "distress" by Madras Act III of 1897, s. 78.

<sup>2</sup> These words were added by Madras Act III of 1897, s. 78.

<sup>3</sup> This section was substituted for the original s. 107 by Madras Act III of 1897, s. 79.

<sup>4</sup> The word "distrain" was inserted by Madras Act III of 1897, s. 80 (1).

<sup>5</sup> The words "upon distraints" repealed by Madras Act III of 1897, s. 80 (1), are omitted.

<sup>6</sup> See last footnote to s. 32 (5) *supra*.

<sup>7</sup> These words were substituted for the original words by Madras Act III of 1897, s. 80 (2).

**109.** The property of a person in default under section 103 may be distrained wherever the same may be found within the Municipality.

Property of defaulter, wherever found may be distrained.

**110.** If the tax due on account of any building or land remains unpaid at the end of the period mentioned in section 103, the Chairman may, provided that the said tax has not been due for more than one year, require the occupier for the time being of such building or land to pay the amount within a specified period; and, if the occupier fails to comply with this requisition, the Chairman may distrain and sell any moveable property found on the premises, and the provisions of sections 104, 105, 106, 107 and 108 shall, *mutatis mutandis*, apply to all distraints and sales effected under this section; but no occupier shall be liable to prosecution under section 103 or to a civil suit, in respect of any sum recoverable from him under this section, unless he has wilfully prevented distraint or a sufficient distraint.

Occupier may be called on to pay for owner.

Occupier not to be liable to prosecution or suit in such case.

**111.** Every person who is prosecuted under section 103 shall be liable, on proof to the satisfaction of the Magistrate that he wilfully or negligently omitted to pay the amount due by him or that he wilfully prevented distraint or a sufficient distraint, to pay a fine not exceeding twice the amount which may be due by him on account of (a) the tax and the warrant fee, if any, and (b), if distraint has taken place, the distraint fee and the expenses incidental to the detention and sale, if any, of the property distrained; and he shall also pay the said amount and the costs of the prosecution:

Penalty on conviction before Magistrate.

Provided that, in the case of any tax due under section 77 where the form referred to in section 80 has not been duly returned to the Municipal office, the amount of tax found under this section to be due shall not be less than the amount specified in the notice served under section 82.

**112.** (*Recovery of arrears of taxes, etc., due at commencement of this Act.*)  
*Repealed by Madras Act III of 1897, section 3 (1).*

#### CHAPTER IV.

##### PURPOSES TO WHICH THE FUNDS RAISED UNDER THIS ACT SHALL BE APPLIED.

**113.** The funds raised under this Act shall, subject to such rules and restrictions as the Governor in Council may, from time to time, prescribe, be applicable within the Municipalities in which they are raised, <sup>3</sup>[or, with the special sanction in each case of the Governor in Council, without the said Municipalities.] to the following purposes; that is to say:—

Purposes to which the funds raised under this Act may be applied.

- (i) The construction, repair, and maintenance of streets, bridges, and other means of communication.

<sup>1</sup> This section was substituted for the original s. 110 by Madras Act III of 1897, s. 81.

<sup>2</sup> This section was substituted for the original s. 111 by Madras Act III of 1897, s. 82.

<sup>3</sup> These words were inserted by Madras Act III of 1897, s. 83 (1).

- <sup>1</sup>(ii) The construction, maintenance and repair of hospitals, dispensaries, lunatic asylums, poorhouses, markets, drains, sewers, latrines, water-works, tanks, wells, recreation grounds, gardens, parks and other works of public utility, the payment of all charges connected with the objects for which such works have been constructed, the training and employment of medical practitioners and vaccinators, the sanitary inspection of towns and villages, the registration of births and deaths, the watering and lighting of the streets, the cleansing of the streets, tanks, wells, drains, sewers, latrines and other works of a similar nature and the taking of a census.
- <sup>1</sup>(iii) The planting and preservation of trees.
- <sup>2</sup>(iv) The diffusion of education, and, with this view, the construction and repair of school-houses, the establishment and maintenance of schools, <sup>3</sup>[public libraries, reading-rooms, gymnasia or any other institutions connected with the diffusion of education] either wholly or by means of grants-in-aid, the inspection of schools, and the training of teachers.
- <sup>3</sup>(v) Other measures of public utility calculated to promote the safety, health, comfort, or convenience of the people.
- <sup>4</sup>(vi) The payment of any amounts falling due on any loans legally contracted by the Municipal Council. <sup>5</sup>\* \* \* \*
- <sup>3</sup>(vii) The payment of salaries, leave allowances, pensions, gratuities and compassionate allowances to servants employed by the Municipal Council.
- <sup>6</sup>(viii) The payment of all expenses specially provided for in this Act, or specially sanctioned, with the approval of the Governor in Council, by the Municipal Council, but not included in the preceding clauses of this section, and the payment of refunds sanctioned by the Municipal Council.

Contributions  
by a Municipality  
to other Municipal or  
local authorities.

**114.** If the expenditure incurred for any of the purposes described in the last preceding section by any authority constituted under the Madras Local Boards Act, 1884, or the City of Madras Municipal Act, 1884, as amended by Madras Acts VII of 1884 and II of 1892, or other similar laws for the time being in force, is calculated to benefit the inhabitants of any Municipality, or if that incurred by the Municipal Council in any one Municipality is

<sup>1</sup> Clauses (ii) and (iii) were substituted for the original clause (ii), as amended by Act IX of 1888, by Madras Act III of 1897, s. 83 (2).

<sup>2</sup> Clauses (iv), (v) and (vii) are the original clauses (iii), (iv) and (v), respectively, renumbered by Madras Act III of 1897, s. 83 (2).

<sup>3</sup> These words were inserted by Madras Act III of 1897, s. 83 (2).

<sup>4</sup> This clause was substituted for the original clause (vi) by Madras Act III of 1897, s. 83 (4).

<sup>5</sup> The proviso, repealed by Madras Act III of 1897, s. 83 (3), is omitted.

<sup>6</sup> This clause was added by Madras Act III of 1897, s. 83 (5).

<sup>7</sup> This section was substituted for the original s. 114 by Madras Act III of 1897, s. 84.

calculated to benefit the inhabitants of any other Municipality, the Municipal Council of the Municipality so benefited may, with the sanction of the Governor in Council, contribute towards such expenditure; or the Governor in Council may direct such Municipal Council to show cause, within a month after receipt of the order containing the direction, why such contribution should not be paid. If the Municipal Council fail to show such cause within the said period to the satisfaction of the Governor in Council, he may direct the said Municipal Council to pay such contribution as he shall name and it shall be paid accordingly.

**115.** The Governor in Council may, at any time, with the consent of the Municipal Council, transfer to such Municipal Council the management of any institution or the execution of any work not provided for by this Act, and it shall thereupon be lawful to such Municipal Council to undertake the management of such institution or the execution of such work: Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the Municipal Council by the Governor in Council.

Objects not provided for by this Act.

**116.** The Governor in Council may, by a notification from time to time, exempt any Municipality from the operation of any one or more of the following sections contained in this Chapter, and may at any time in like manner modify or cancel such exemption.

Exemption from this Chapter.

#### 1. EDUCATION.

**117.** The Municipal Council shall, so far as the funds at their disposal may admit, make provision for the instruction in schools of all children of school-going age, resident within the limits of the Municipality, for whose instruction provision shall not otherwise have been made.

The Municipal Council to make provision for the public instruction of children,

**118.** The Municipal Council may provide instruction—

- (i) either by schools maintained wholly from the Municipal Fund, or
- (ii) by means of grants-in-aid to private schools from the said fund in accordance with such rules as may from time to time be prescribed by the Governor in Council, or
- (iii) by contributing towards the cost of Government schools, or
- (iv) by more than one of such means.

by maintaining schools, or by grants-in-aid,

or by contributions,

**119.** The Municipal Council may, with the previous sanction of the Governor in Council, maintain, either wholly from the Municipal Fund or by grants-in-aid therefrom, primary schools to which admission may be wholly or partly free for any class of the inhabitants which, in the opinion of the Municipal Council, is by reason of poverty unable to pay the fees leviable in schools maintained by the Municipal Council, whether wholly from the Municipal Fund or by grants-in-aid therefrom.

and may maintain or aid schools where admission is free to a class or classes.

**120.** If at any time it seems advisable to the Governor in Council that a grant-in-aid should be made to any school maintained solely for the instruction of the children of any particular class of the inhabitants of any

The Governor in Council may direct that aid be

given to a school intended for a particular class.

Municipality, he may direct the Municipal Council of such Municipality to make such grant to such school; and the Municipal Council shall make it accordingly: provided that the Governor in Council shall not so direct until the Municipal Council shall have had an opportunity of submitting their views on the subject to Government.

The standard of public instruction to be provided by the Municipal Council.

**121.** The instruction to be provided by the Municipal Council shall be of such standards as may from time to time be prescribed by the Governor in Council.

The Municipal Council shall levy school fees in such and may pay the fee for any child;

**122.** (1) The Municipal Council shall levy in every school maintained by them wholly from the Municipal Fund fees in accordance with such rates as may from time to time be prescribed by the Governor in Council: provided that if the Municipal Council are satisfied that the parent or guardian of any child, resident in the Municipality, is by reason of poverty unable to pay for the primary education of such child, they may pay the whole or part of the fees payable for the primary education of such child, but they shall not compel the parent or guardian of such child to send such child, in consideration of the said relief, to any particular school.

but shall not name the school to which the child shall go.

(2) The proceeds of all fees levied by the Municipal Council as aforesaid shall be expended by the Municipal Council for the provision of instruction by means of schools.

The proceeds of fees shall be spent on schools.

**123.** (*The Municipal Council may aid the construction of buildings for other schools.*) *Repealed by Madras Act III of 1897, section 3 (1).*

The Council may provide for other educational matters.

**124.** The Municipal Council may also provide, wholly from the Municipal Fund, or by means of grants-in-aid therefrom—

- (i) for the inspection of schools maintained by them, whether wholly from the Municipal Fund or by grants-in-aid therefrom;
- (ii) for the training of teachers for <sup>1</sup>[schools maintained or aided from Municipal funds];
- (iii) for the instruction and training of persons for the practice of medicine, or of vaccination, or of any technical or industrial calling; and
- (iv) for the maintenance of public libraries, reading-rooms, gymnasias, or any other institutions connected with the diffusion of education, which may be approved by the Governor in Council.

## 2. MEDICAL RELIEF.

Provision of hospitals and dispensaries.

**125.** (1) The Municipal Council shall provide and maintain either from endowments or from the Municipal Fund or by grants-in-aid therefrom, in accordance with such rules as may from time to time be prescribed by the Governor in Council, a hospital or dispensary where the sick poor of the

<sup>1</sup> These words in s. 124 (ii) were substituted for the words "primary schools" by Madras Act III of 1897, s. 85.



Municipality shall be entitled to receive medical and surgical advice and treatment free of charge; and the Municipal Council shall provide and maintain more than one such hospital or dispensary if the Governor in Council directs them to do so: Provided that the Governor in Council shall not so direct until the Municipal Council shall have had an opportunity of submitting their views on the subject to the Government.

(2) But the Municipal Council shall not be bound to provide or maintain any such hospital or dispensary when, in the opinion of the Governor in Council, sufficient provision has otherwise been made for the treatment free of charge, of the sick poor of the Municipality.

**126.** The Municipal Council shall provide every hospital or dispensary provided or maintained by them with all necessary drugs, instruments, apparatus, furniture, and appliances on a scale approved by Government, and, when in the opinion of the Municipal Council provision for in-patients may be necessary, they shall also provide a sufficient number of cots, bedding, clothing, furniture and diet for such in-patients.

**127. (1)** Any inhabitant of the Municipality, who is not a fit object of public charity, may, subject to such rules as the Municipal Council, with the approval of the Governor in Council, may from time to time prescribe, obtain medical or surgical advice and treatment from any hospital or dispensary maintained by the Municipal Council from endowments or from the Municipal Fund: provided that any charges incurred by the Municipal Council in the medical or surgical relief of persons other than the sick poor of the Municipality or those unable to pay a medical attendant shall be reimbursed by such persons.

(2) The Municipal Council shall employ a Medical Officer for any hospital or dispensary maintained by them from endowments or from the Municipal Fund.

**128.** The Municipal Council may also permit the treatment in the hospitals or dispensaries maintained by them from endowments or from the Municipal Fund of any person not resident in the Municipality.

### 3. VACCINATION.

**129.** Every Municipal Council shall make provision for the gratuitous vaccination of all persons residing within the Municipality—

- (i) by employing an adequate staff of duly qualified vaccinators, and
- (ii) by making suitable provision for, and defraying the charges of, maintaining a supply of vaccine lymph, and such public vaccinating stations as may be necessary.

**130.** The Governor in Council may, by a written license, authorize any medical practitioner or other person to perform the operation of vaccination, and may at any time suspend or cancel any such license.

No fee to be charged for vaccination by any public vaccinator or for certificates.

But fee may be levied for visit to private house.

Vaccination of goshia females.

Certificate of vaccination.

Certificate when child is insusceptible of vaccination.

Governor in Council may declare vaccination compulsory. Municipal Council to proclaim that vaccination is compulsory.

Unprotected child to be vaccinated.

Vaccinator to certify if child unfit.

**131. (1)** No fee or remuneration shall be charged by any public vaccinator for any vaccination performed or certificate given under this Act.

<sup>1</sup>Provided that the Chairman may, upon application by any person and upon the payment by him of such fee as the Municipal Council may have prescribed, direct a public vaccinator to perform vaccination, or to make an inspection as hereinafter provided, at the private residence of such person.

<sup>2</sup>(2) If the application mentioned in the proviso to sub-section (1) is made in respect of a female who, according to the customs of the country, does not appear in public, the same shall be complied with, and no fee shall be charged in respect of such compliance.

**132. (1)** The parent or guardian of any child successfully vaccinated may require from the public vaccinator, a certificate to the effect that the child has been successfully vaccinated and the public vaccinator, shall furnish such certificate.

(2) If the public vaccinator is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate to that effect.

#### (a) Compulsory Vaccination.

**133. (1)** The Governor in Council may, by notification, declare that vaccination shall be compulsory in any Municipality from a date to be specified in such notification, and may from time to time, in like manner, cancel or modify such declaration.

(2) On the publication of the said notification, the Municipal Council shall cause to be proclaimed by beat of drum and by notification in the District Gazette, that vaccination is compulsory in such Municipality.

**134.** The parent or guardian of any unprotected child who is <sup>3</sup> \* \* \* six months old but is under ten years of age, and who has resided within the limits of such Municipality for a period of six months after such proclamation, shall take or cause it to be taken to a vaccinator or shall procure its vaccination by a vaccinator. <sup>4</sup>[The Chairman may, in such Municipality, direct the vaccination of any child under six months of age when it is exposed to infection in consequence of residence in a house infected by small-pox.]

**135. (1)** The vaccinator shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate to the effect that the child is in a state unfit for vaccination.

<sup>1</sup> This proviso was added by Madras Act III of 1897, s. 86 (1).

<sup>2</sup> This sub-section was added by Madras Act III of 1897, s. 86 (2).

<sup>3</sup> The words "more than" repealed by Madras Act III of 1897, s. 87, are omitted.

<sup>4</sup> These words were added by Madras Act III of 1897, s. 87.

(2) A certificate granted under this section showing the unfitness of a child for vaccination shall remain in force for such period, not exceeding three months, as shall have been stated therein; and, on the termination of that period, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator, and shall subsequently cause it to be inspected in the manner hereinafter provided:

Effect of such certificate.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate shall be renewed.

Renewal of such certificate.

**136.** The vaccinator shall, if he finds the child to be in a state fit for vaccination, vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation.

Vaccinator to vaccinate child, if fit.

**137. (1)** The parent or guardian of every child which has been vaccinated under the last preceding section shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or shall procure its inspection by a vaccinator; and such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Inspection after vaccination.

(2) When it is ascertained, at the time of inspection under this section, that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect; and such child shall thereafter be deemed to be protected.

Procedure when vaccination is successful.

(3) When it is ascertained that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated, and shall subsequently cause it to be inspected in the manner provided in sub-section (1) of this section.

Procedure when vaccination is unsuccessful.

(4) If the vaccinator is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of vaccination, he shall deliver to the parent or guardian of such child a certificate to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Certificate of insusceptibility.

**138. (1)** The Chairman, or some person or persons authorized by him in that behalf, shall ascertain <sup>1</sup>[which] children under the age of ten years within the Municipality <sup>2</sup>[are unprotected; and for the said purpose the Chairman may require any parent or guardian to forward to him within a specified time a list in writing signed by him of the number and ages of the children under his guardianship]; and if the Chairman or any person authorized by him has reason to believe that the parent or guardian of any unprotected child is bound by the provisions hereinbefore contained to <sup>2</sup>[procure

Notice to parent or guardian of unprotected child, etc.

<sup>1</sup> The word "which" was substituted for the original words by Madras Act III of 1897, s. 88 (1).

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 88 (2).

the vaccination or inspection of such child] and has omitted so to do, he shall go to the house of such parent or guardian and there make inquiry, and shall, if the fact is proved to his satisfaction, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated <sup>1</sup>[or inspected, as the case may be] at a time and place to be specified in the notice.

If notice is disobeyed, Magistrate may impose fine ;

(2) If such notice is not complied with, the Chairman or such person shall send a report on the matter to the Magistrate, who shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, <sup>2</sup>sentence such parent or guardian to pay a fine not exceeding fifty rupees].

or may direct compliance with notice before given date.

<sup>3</sup> (3) If the Magistrate finds the explanation given by the parent or guardian of the child to be satisfactory, he shall make an order in writing directing such parent or guardian to comply with the notice given under sub-section (1) before a date specified in the order, and if, on such date, the said order has not been obeyed, the Magistrate shall again summon the parent or guardian to appear before him and shall proceed as before.

No penalty where animal lymph demanded but not available.

<sup>4</sup> (4) No penalty shall be imposed under this section, if it is proved that the parent or guardian has demanded the use of animal vaccine lymph and that such lymph has not been available.

**139.** (*Provision as to person who does not appear in public.*) Repealed by Madras Act III of 1897, section 3 (1).

#### (b) Penalties.

Penalty for signing a certificate by unauthorized vaccinator.

**140.** Whoever, after a notification has been issued under section 133 (1) not being a vaccinator under this Act, wilfully signs or makes a certificate purporting to be a certificate granted under this Act, shall be liable to a fine not exceeding Rs. 500.

Penalty for signing a false certificate or refusing to grant certificate.

**141.** Whoever, being a vaccinator, wilfully signs, or makes, or procures the signing or making of, a false certificate, or, being bound to grant a certificate under this Act, refuses or neglects to grant the same, shall be liable to a fine not exceeding Rs. 100.

Prohibition of inoculation.

**142.** In every Municipality inoculation is hereby prohibited; and

Inoculated persons not to enter any Municipality within given period without certificate.

no person who has undergone the operation of inoculation shall enter any Municipality before the lapse of forty days from the date of inoculation without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such

<sup>1</sup> See the second footnote on preceding page.

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 88 (2).

<sup>3</sup> This sub-section was substituted for the original sub-section (3) by Madras Act III of 1897, s. 88 (2).

<sup>4</sup> This sub-section was added by Madras Act III of 1897, s. 88 (4).

certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Whoever contravenes the provisions of this section shall be liable to simple imprisonment for a term not exceeding three months, or to a fine not exceeding Rs. 200, or to both. Penalty for such entry.

#### 4. WATER-SUPPLY.

**143.** (1) The Municipal Council shall, so far as the funds at their disposal may admit, provide a sufficient supply of water fit for the domestic use of the inhabitants of the Municipality. The Municipal Council to provide water-supply.

(2) <sup>1</sup>[All public water-courses and springs, and all public] tanks, reservoirs, cisterns, fountains, wells, stand-pipes and other water-works existing at the time of the coming into operation of this Act or afterwards made, laid or erected, and whether made, laid or erected at the cost of the Municipal Council or otherwise, and also any adjacent land (not being private property) appertaining <sup>2</sup>[thereto], shall be under the control and direction of the Municipal Council. Public tanks, etc., to be under the control of the Municipal Council.

(3) The Governor in Council may, from time to time, by notification, limit or define, such control and direction and may exclude from the provisions of this section any source of water-supply and any water-works being the property of Government, and may in like manner cancel or modify such notification. Governor in Council may limit such control.

**144.** (1) The Municipal Council may direct, with the sanction of the Governor in Council, the construction of such works as they may deem fit for bringing water into the Municipality, and may provide channels, tanks, reservoirs, cisterns, wells, fountains, stand-pipes and other works as they may deem fit for the use of the inhabitants. Construction of new works.

(2) The Municipal Council may <sup>3</sup> \* \* \* cause existing public channels, tanks, reservoir, cisterns, wells, fountains, stand-pipes and other works used for the supply of water to be maintained and supplied with water; Maintenance of existing works for supply of water.

or they may close any such works and substitute other such works, and may cause them to be maintained and supplied with water. Works may be closed and others substituted.

**145.** Whenever the Governor in Council has sanctioned any works without the limits of any Municipality for bringing water into such Municipality, the Municipal Council and their servants may exercise all the powers which, by this Act, they may exercise within the Municipality (a) in the construction, maintenance and repair of such works throughout the line of Powers of the Municipal Council when constructing water-works without the Municipality.

<sup>1</sup> These words were substituted for the original words by Madras Act III of 1897, s. 89.

<sup>2</sup> The word "thereto" was substituted for the original words by Madras Act III of 1897, s. 89.

<sup>3</sup> See last footnote to section 32 (5) *supra*.

<sup>4</sup> This section was substituted for the original s. 145 by Madras Act III of 1897, s. 90.

country in which such works are situated or through which they are to run, and, (b) with the sanction of the Governor in Council,

- (i) over any lake, tank or reservoir from which a supply of water for the use of the Municipality is derived and over all lands within one mile of the high water level of any such lake, tank or reservoir ; and
- (ii) over any water-course from which a supply of water for the use of the Municipality is derived, within one mile above, and one-half of a mile below, any point at which water is taken for such use.

Powers of Municipal Council in laying down pipes.

**146.** (1) The Municipal Council, in laying down any pipes for the water-supply of the Municipality, may, if they consider it necessary, carry such pipes through, across or under any street or any place laid out or intended for a street, or under any building or through any cellar or vault or into, through or under any enclosed or other land whatsoever.

Notice to owner of private property and compensation for dealing with it.

(2) The Municipal Council shall, in every case in which they deal with private property under this section, give reasonable notice of their intention so to do to the owner of such property, and shall pay to him reasonable compensation for so dealing with the property.

Supply of water for domestic purposes.

**147.** (1) The Chairman may, on application by the owner or occupier of any building, arrange for supplying water to the same for domestic purposes in such quantities as the Chairman deems reasonable with reference to the annual rateable value of buildings or otherwise, and may at any time limit the quantity of water to be so supplied whenever he considers it necessary.

*Explanation.*—A supply of water for domestic purposes shall not be deemed to include a supply—

- (a) for animals or for washing vehicles, where such animals or vehicles are kept for sale or hire,
- (b) for any trade, manufacture or business,
- (c) for fountains, swimming-baths, or for any ornamental or mechanical purpose,
- (d) for gardens or for purposes of irrigation,
- (e) for watering streets,
- (f) for flushing purposes,
- (g) for building purposes.

Supply of water for other than domestic purposes.

(2) The Chairman may at his discretion supply water for any purpose other than a domestic purpose, on receiving a written application specifying the purpose for which such supply is required and the quantity likely to be consumed.

Payment of excess water.

(3) For all water taken for domestic purposes in excess of the limit allowed under sub-section (1), or supplied for any purpose other than a domestic

<sup>1</sup> This section was substituted for the existing section 147 by Madras Act V of 1909, s. 2 *infra*.

purpose under sub-section (2), payment shall be made at such rate as may be prescribed by the Municipal Council.

(4) The works necessary for such supplies and all future repairs, extensions and alterations of such works shall, in every case, be carried out by the Chairman, or under his orders, and the expense thereof shall be defrayed by such owner or occupier. Payment of expenses by owner or occupier.

**148.** (1) The Chairman, or any person authorized in that behalf by him, <sup>1</sup>[may, at any time between sunrise and sunset and after giving one hour's notice to the occupier of any building or land supplied with water under sub-section (1) of section 147, enter into or upon such building or land] and examine the condition of any pipes, works, and fittings, and ascertain if there be any waste or misuse of water supplied thereto by the Municipal Council. Power to enter premises.

(2) If the Chairman or such other person <sup>2</sup> \* \* \* is without reasonable cause refused admittance to such building or land for the purpose aforesaid, or is prevented without reasonable cause from making such examination, or <sup>3</sup>[if it appears to the Chairman that, pending repair, waste of water cannot be otherwise prevented], the Chairman may stop the supply of water to such building or land. If obstructed, or to prevent waste, Chairman may stop water.

**149.** The <sup>4</sup> \* \* \* occupier of any building or land, in which water supplied under this Act is wasted or misused from negligence or other circumstances under the control of the said <sup>4</sup> \* \* \* occupier, or <sup>5</sup>[is used] in excess of the quantity fixed <sup>6</sup> \* \* \* under section 147, or [is used] for any <sup>7</sup> [purposes] other than those agreed on, or in whose building or land the pipes, works, and fittings for the supply of water are found to be out of repair to such an extent as to cause waste of water, and who, having knowledge thereof, omits to give reasonable notice thereof to the Chairman, shall be liable to a fine not exceeding Rs. 20 for every such neglect, misuse, breach or omission, and shall also pay such costs of the prosecution as shall be awarded. Penalty for waste or misuse of water.

**149-A.** If any person who has been supplied with water under sub-section (1) of section 147 neglects to pay any sum due from him on account of the water and drainage tax levied under section 75 or any sum due from him under section 147, or is convicted of an offence punishable under section 149, the Chairman may stop the supply of water to him by cutting off any pipe laid down for the purpose of such supply or by such other Chairman may cut off water in case of neglect to pay water-tax, etc.

<sup>1</sup> These words were substituted for the original words by Madras Act III of 1897, s. 92 (1).

<sup>2</sup> Words repealed by Madras Act III of 1897, s. 92 (2), are omitted.

<sup>3</sup> These words were substituted for the original words by Madras Act III of 1897, s. 92 (2).

<sup>4</sup> The words "owner or" were repealed by Madras Act V of 1909, s. 3 *infra*.

<sup>5</sup> The words "is used" were substituted for the word "used" by Madras Act III of 1897, s. 93.

<sup>6</sup> Words repealed by Madras Act III of 1897, s. 93, are omitted.

<sup>7</sup> The word "purposes" was substituted for the word "purpose" by Madras Act III of 1897, s. 93.

<sup>8</sup> This section was inserted by Madras Act III of 1897, s. 94.

means as he thinks fit, and may recover the amount of the outlay incurred in cutting off the supply from the person in consequence of whose neglect or conviction the supply was stopped.

Penalty for trespassing on channel land, etc.

**150.** (1) Whoever trespasses upon land belonging to the Municipal Council along which the water-supply channel is conducted, or the buildings or premises connected with the water-supply, shall be liable to a fine not exceeding Rs. 20.

Penalty for refusing to leave land, etc., trespassing upon.

(2) If any such person refuses to leave such land, buildings or premises, on being requested to do so by any servant of the Municipal Council, or by any one authorized in that behalf by the Municipal Council, such person shall be liable to a further fine not exceeding Rs. 50, and may be removed from such land or buildings or premises by such servant or other person.

Damaging works.

**151.** Whoever—

(i) unlawfully breaks, injures, or causes damage to, any public channel, tank, reservoir, cistern, well, fountain, stand-pipe or other work, connected with the water-supply, or without due authority opens or removes any lock, cock, or pipe belonging to, or under the management or control of, the Municipal Council, or

Diverting water.

(ii) unlawfully draws off, or takes, water from any water-works belonging to the Municipal Council or under their management or control,

Penalty.

shall, for every such offence, be liable to a fine not exceeding Rs. 20.<sup>1</sup> \* \* \* \*

#### (a) Foulness of Water.

Water fouled by offensive trades.

**152.** Whoever, being the occupier of any place where any offensive trade or manufacture is carried on, does any act which causes the defilement of the water in any public water-course or spring, or in any tank, reservoir, well, cistern, aqueduct or other work which belongs to, or is under the control of, the Municipal Council, shall be liable to a fine not exceeding Rs. 500.

Penalty.

Chairman may examine pipes.

**153.** (1) The <sup>3</sup>[Chairman], or any person duly authorized by <sup>4</sup>[him] in that behalf, may, after twenty-four hours' notice in writing, lay open and examine any pipe or work belonging to any person mentioned in the preceding section or under his management or control.

If water fouled, expense of examination to fall on owners.

(2) If, upon such examination, it appears that any such water has been fouled by anything proceeding from or contained in the pipes or works examined, the expenses of such examination shall be paid by the person to whom such pipes or works belong, or under whose management or control they are.

<sup>1</sup> Words repealed by Madras Act III of 1897, s. 95, are omitted.

<sup>2</sup> This section was substituted for the original s. 152 by Madras Act III of 1897, s. 96.

<sup>3</sup>, <sup>4</sup> The words "Chairman" and "him" were substituted for the words "Municipal Council" and "them," respectively by Madras Act III of 1897, s. 97.



(3) If, upon such examination, it appears that such water has not been so fouled, then such expenses and all damages occasioned to any building, land, pipe or work by the examination shall be paid by the Municipal Council.

If water not fouled, expense to be paid by Municipal Council.

<sup>1</sup> 154. The Municipal Council may set apart public springs, tanks, wells and other places, and parts of public water-courses, for drinking purposes or for bathing or for washing clothes or animals, respectively, or for any other purpose calculated to promote the health, cleanliness, comfort or convenience of the inhabitants.

Council may set apart tanks, etc., for certain purposes.

<sup>2</sup> 155. Whoever

- (i) bathes in, or in any other manner defiles, the water in any place set apart either by the Municipal Council, or, in the case of private property, by the owner thereof, for drinking purposes; or
- (ii) deposits any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes; or
- (iii) washes clothing in any place set apart as aforesaid for drinking or bathing; or
- (iv) washes any animal, or any cooking utensil, or wool, skins or other foul or offensive substance, or deposits any offensive or deleterious matter, in any place set apart as aforesaid for bathing or washing clothes; or
- (v) allows the water from a sink, sewer, drain, engine or boiler, or any other offensive matter belonging to him or flowing from any building or land belonging to, or occupied by, him, to pass into any place set apart as aforesaid for drinking, bathing or washing clothes;

Penalty for using tank, etc., so set apart, for purposes other than those intended.

shall be liable to a fine not exceeding Rs. 20 for every such offence.

(b) *Private Water-courses. Wells, etc.*

156. (1) The <sup>3</sup> [Chairman] may, by notice, require the owner of, or the person having control over, any private <sup>4</sup> [water-course, spring,] tank, well or other place, the water of which is used for drinking, <sup>5</sup> [bathing or washing clothes] to keep and maintain the same in good repair and to clean the same, from time to time, of silt, refuse or decaying vegetation, and may also require him to protect the <sup>6</sup> [same] from pollution by surface drainage in such manner as <sup>7</sup> [the Chairman] may think fit.

Power to require private well, etc., to be cleansed.

<sup>8</sup> (2) And whenever the water of any such water-course, spring, tank, well, or other place is proved to the satisfaction of the Municipal Council to

or closed if unfit for use.

<sup>1</sup> This section was substituted for the original s. 154 by Madras Act III of 1897, s. 98.

<sup>2</sup> This section was substituted for the original s. 155 by Madras Act III of 1897, s. 99.

<sup>3</sup>, <sup>4</sup> These words were substituted for the original words by Madras Act III of 1897, s. 100 (1).

<sup>5</sup> These words were inserted by Madras Act III of 1897, s. 100 (1).

<sup>6</sup>, <sup>7</sup> These words were substituted for the original words by Madras Act III of 1897, s. 100 (1).

<sup>8</sup> This sub-section was substituted for the original sub-section (2) by Madras Act III of 1897, 100 (2).

be unfit for drinking, bathing or washing clothes, as the case may be, the Municipal Council may, by notice, require the owner or person having control thereof to desist from so using such water or permitting others to so use it, and if, after such notice, such water is used by any person for drinking, bathing or washing clothes as the case may be, the Municipal Council may require the owner or person having control thereof to close such well, either temporarily or permanently, or to enclose or fence such water-course, spring, tank, well or other place, in such manner as they may direct, so that the water thereof may not be so used.

### 5. STREETS.

Mainten-  
ance and  
repair of  
streets.

**157.** (1) The Municipal Council shall, from time to time, so far as the funds at their disposal may admit, repair the public streets and bridges and maintain them in good order.

Foot-ways.

(2) The Municipal Council may make and maintain footways for the use of passengers in any street, and may place on the sides of such foot-ways such fences and posts as may be needed for the protection of foot-passengers.

Power to  
make and  
improve  
streets and  
close them,  
etc.

**158.** (1) The Municipal Council may <sup>1</sup> \* \* \* \* lay out and make new public streets, and may construct bridges and tunnels, and may turn, divert or close any public street, and may widen, lengthen, enlarge or otherwise improve any such street :

Provided that the Municipal Council shall make reasonable compensation to the owners and occupiers of any land or buildings which are required for or affected by any such purposes.

Power to  
take land  
adjoining  
new streets  
for building  
purposes.

(2) In laying out or making a street, or in turning, diverting, widening, lengthening, enlarging or otherwise improving a street, the Municipal Council may, in addition to the land necessary for such street and the foot-ways thereof, purchase also the land necessary for the buildings to form or improve the said street.

Chairman  
may tempo-  
rarily close  
any street.

**159.** The <sup>2</sup> [ Chairman ] may, by an order in writing, temporarily close any street for repairs, or to carry out any work connected with drainage, water-supply, or lighting, or any of the purposes of this Act : provided that such work shall be completed and such street re-opened for traffic with all reasonable speed.

Interference  
with public  
streets, etc.

**160.** No person shall take up or make any alterations in the pavement or other material, or in the fences or posts of any public street in the Municipality without the written permission of the Municipal Council or without lawful authority.

<sup>1</sup> Words repealed by Madras Act III of 1897, ss. 101 and 3 (2), are omitted (see footnote to s. 32 (3)).

<sup>2</sup> The word "Chairman" was substituted for the words "Municipal Council" by Madras Act III of 1897, s. 102.

**161.** (1) Every person intending to lay out and make a new street shall make an application in writing to the Municipal Council for a license to do so.

Private persons laying out new streets to give notice. Notice to be accompanied by plan.

(2) Such application shall be accompanied by plans and sections showing—

- (i) the intended level, direction and width of such street,
- (ii) the means of drainage, and
- (iii) the height and dimensions of the buildings to be erected on each side.

(3) If the Municipal Council <sup>1</sup> \* \* approve of such level, direction, width, means of drainage, height and dimensions, and if such intended new street appears to them to be expedient, they shall, within <sup>2</sup> [two months] after the receipt of such application, give a written license to lay out such street; or if they disapprove of such level, direction, width, means of drainage, height or dimensions, or if such intended street appears to them to be inexpedient, they shall issue an order in writing to the applicant, within <sup>2</sup> [two months] after receipt of such application, refusing to give a license for making such intended new street.

Subject to approval of the Municipal Council.

<sup>3</sup> (4) On receipt of such license, or if, within the said period of two months, the Municipal Council has not issued an order refusing to give a license, the applicant may proceed to lay out and make the intended new street in accordance with the particulars specified in his application and the accompanying plans and sections.

When applicant may proceed to make street.

**162.** If any street (not being a public street) or any part thereof is not levelled, paved, metalled, flagged, channelled and drained to the satisfaction of the Municipal Council, they may, by notice to the owners or occupiers of the land or buildings fronting or abutting upon such street or part thereof, require them to carry out, within a time to be specified in such notice, any work which, in the opinion of the Municipal Council, ought to be carried out in such street or part thereof.

Paving, etc., of private streets.

**163.** (1) After such street has been so levelled, paved, metalled, flagged, channelled and drained, on the requisition of the Municipal Council, or by the Municipal Council, as <sup>4</sup> [provided in section 264] at the expense of the owners or occupiers, such street shall, on the requisition of the owners thereof, be declared by the Municipal Council to be a public street and shall thenceforth be a public street.

Such private street shall, on the requisition of the owners, be declared to be public street.

<sup>1</sup> See last footnote to s. 32 (5) *supra*.

<sup>2</sup> The words "two months" were substituted for the words "one month" by Madras Act III of 1897, s. 103 (1).

<sup>3</sup> This sub-section was substituted for the original sub-section (4) by Madras Act III of 1897, s. 103 (2).

<sup>4</sup> These words were substituted for the original words by Madras Act III of 1897, s. 104 (1).

Other private streets may be declared to be public streets.

(2) The Municipal Council may agree with the person or persons in whom the property in any street is vested to take over the property therein, <sup>1</sup> [ and shall ] after such agreement, declare, by notice, put up in any part of such street, that the same has become a public street. Such street shall thereupon vest in the Municipal Council, and shall thenceforth be dealt with in the manner provided for public streets.

Regular line of street.

<sup>2</sup> 164. The Municipal Council may prescribe a line on each side of any public street within which, except under the provisions of section 169, no portion of any building abutting on the said street, shall, after such line has been prescribed, be constructed.

A line so prescribed shall be called " the regular line of the street."

When projecting buildings fall down, etc., the Chairman may acquire intervening land and require buildings to be set back, etc. Compensation to owners of such buildings.

<sup>2</sup> 165. (1) When any building or any part thereof which projects beyond the regular line of a public street falls down or is burnt down or is taken down under section 180 or otherwise, the Chairman may at once take possession on behalf of the Municipal Council of the portion of the land within the regular line of the street theretofore occupied by the said building, and, if necessary, clear the same; the Chairman may also require such building or part thereof to be set back to the regular line of the street.

(2) The Municipal Council shall make reasonable compensation to the owner of such building for any damage which he may sustain by any action taken under sub-section (1).

(3) Land acquired under this section shall thenceforward be deemed a part of the public street, and shall vest as such in the Municipal Council.

<sup>2</sup> 165-A. The Municipal Council may, upon such terms as it thinks fit allow any building to be set forward for improving the line of any public street in which such building is situated.

166. The Municipal Council may by notice require—

- (i) the owners or occupiers of lands or buildings skirting public streets or roads to construct, alter, maintain and keep free from all obstruction culverts of such sufficient plan, size and material as the Municipal Council may direct, over the side channels or ditches at the entrances to such land or buildings;
- (ii) the <sup>3</sup> [owner or occupier of any building] in any public street to put up and maintain proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same in such manner as the Municipal Council may allow; and

Troughs and pipes to be fixed to buildings.

<sup>1</sup> The words " and shall " were substituted for the words " and may " by Madras Act III of 1897, s. 104 (2).

<sup>2</sup> Ss. 164, 165 and 165-A were substituted for the original ss. 164 and 165 by Madras Act III of 1897, s. 105.

<sup>3</sup> These words were substituted for the original words by Madras Act III of 1897, s. 106 (1).

(iii) the owners <sup>1</sup> [or] occupiers of all buildings or premises adjoining a public thoroughfare to keep the external walls of such buildings or premises in proper repair to the satisfaction of the Municipal Council, External walls to be kept in proper repair.

and the Municipal Council shall fix in such notice a period for the execution of such work.

(a) *Projections and Obstructions.*

**167.** (1) No wall, fence or other obstruction or encroachment in any public street, <sup>2</sup> [and no wall or fence bounding, or abutting on, any public street] shall be erected without the written permission of the Municipal Council, nor shall any door, gate, bar, or window be made without such permission so as to open outward on any public street. Obstructions and bounding walls not to be made without permission.

(2) If any door, gate, bar, or window be made so as to open outwards on any public street, the Municipal Council may, by notice, require the owner or occupier of the premises to which the same is attached, to cause the same to be altered, <sup>3</sup> [within a time to be specified in such notice, so as not to open outwards]. Owner or occupier to alter doors, etc., opening outwards.

**168.** (1) The Municipal Council may cause any projection, encroachment, or obstruction made against or in front of any building or land in any public street, <sup>4</sup> \* \* \* \* to be removed or altered as they think fit. Removal of existing projections, etc.

(2) The Municipal Council shall give notice of such intended removal or alteration to the owner or occupier of the building or land against or in front of which such projection, encroachment, or obstruction has been made, thirty days before such alteration or removal is begun. Notice of removal.

(3) If such projection, encroachment or obstruction shall have been lawfully made, the Municipal Council shall make reasonable compensation to every person who suffers damage by such removal or alteration. Compensation to be made.

**169.** (1) <sup>5</sup> [Every person] intending to put up any verandah, balcony, sun-shadè, weather-frame, or the like, to project over the pials and pavements in front of <sup>6</sup> [any building or land in a public street] or over <sup>7</sup> [such street] shall apply in writing to the Municipal Council for a license to do so. Owners and occupiers to apply for license to put up verandah, etc.

(2) The Municipal Council may in their discretion grant a license in writing to erect such projection, provided that it does not extend over the street to a distance exceeding five feet from the line of frontage and is not of a height above the street of less than seven feet, and provided, also, that no license shall be granted if the projection is likely to cause public inconvenience. Municipal Council may grant license.

<sup>1</sup> The word "or" was substituted for the word "and" by Madras Act III of 1897, s. 106 (2).

<sup>2</sup> These words were inserted by Madras Act III of 1897, s. 107 (1).

<sup>3</sup> These words were substituted for the original words by Madras Act III of 1897, s. 107 (2).

<sup>4</sup> Words repealed by Madras Act III of 1897, s. 108, are omitted.

<sup>5</sup> <sup>6</sup>, <sup>7</sup> These words were substituted for the original words by Madras Act III of 1897, s. 109.

Permissibility of temporary erections on occasions of festivals, etc.

License to be obtained and hoarding to be set up during repairs.

The same to be lighted during night.

Precaution against accidents. Bars to be erected across streets during repairs. To be lighted and guarded at night.

Penalty for removing bar or light.

Holes and other obstructions in streets not to be made without Chairman's permission.

**170.** Notwithstanding anything hereinbefore contained, the <sup>1</sup>[Chairman] may by a license allow any temporary erections in a street on occasions of <sup>2</sup>[fairs], festivals and ceremonies.

**171.** Every person intending to build or take down any building, or to alter or repair the outward part of any building where any street or foot-way is likely to be obstructed or rendered inconvenient by means of such work, shall, before beginning the same, obtain a license in writing from the <sup>3</sup>[Chairman] so to do, and shall cause sufficient hoarding or fences to be put up, in order to separate the building where such works are being carried on from the street or foot-way, and shall maintain such hoarding or fences in good condition, to the satisfaction of the <sup>3</sup>[Chairman,] during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

<sup>4</sup> Provided that no person shall keep up the said hoarding or fences for a time longer than allowed in the said written license.

**172.** (1) The Municipal Council shall, during the construction or repair of any street, drain or other premises vested in them, take proper precaution for guarding against accidents, by shoring up and protecting the adjoining houses, and shall cause such bars, chains or posts to be fixed across or in any street in which any such work is going on as they deem necessary in order to prevent the passage of vehicles or animals <sup>5</sup>[or to] avert danger.

(2) The Municipal Council shall cause every such street, drain, or other work, during the construction or repair thereof, to be sufficiently lighted and guarded during the night.

(3) Whoever takes down, alters or removes, any such bar, chain or post, or extinguishes any such light, without the authority of the Municipal Council, shall be liable to a fine not exceeding Rs. 20.

<sup>6</sup>**173.** No person shall make any hole or cause any other obstruction, in any street, without the written permission of the Chairman. If such permission is granted, the person making such hole or obstruction shall, at his own expense, cause the same to be sufficiently fenced or otherwise enclosed until the hole is filled up or otherwise made secure or until the obstruction is removed, as the case may be, and shall, similarly, cause the same to be sufficiently lighted at night. If any person contravenes the provisions of this section the Chairman may fill up the hole or remove the obstruction or cause the same to be lighted, as the case may be, and may recover the cost of so doing from such person.

<sup>1</sup> The word "Chairman" was substituted for the words "Municipal Council" by Madras Act III of 1897, s. 110.

<sup>2</sup> The word "fairs" was inserted by Madras Act III of 1897, s. 110.

<sup>3</sup> The word "Chairman" was substituted for the words "Municipal Council" by Madras Act III of 1897, s. 111.

<sup>4</sup> This proviso was inserted by Madras Act III of 1897, s. 111.

<sup>5</sup> The words "or to" were substituted for the word "and" by Madras Act III of 1897, s. 112.

<sup>6</sup> This section was substituted for the original s. 173 by Madras Act III of 1897, s. 113.

<sup>1</sup> 173-A. If any obstruction is caused in a public street by the fall of trees, buildings or fences, the occupier of the building or land concerned shall, within twelve hours of the occurrence of such fall or within such further period as the Chairman may allow, clear the street of such obstruction; and, if the said occupier fails so to do, the Chairman may remove the obstruction, and may recover the cost of so doing from the owner or occupier. The occupier may recover from the owner all reasonable costs incurred by him under this section.

Debris of fallen houses, etc., to be removed by occupier.

(b) *Names of Streets.*

174. (1) The Municipal Council may, from time to time, cause to be put up or painted in English and a Vernacular language of the district on a conspicuous part of some building, or place, at or near each end, corner or entrance of every street, the name by which such street is to be known.

Names of streets.

(2) Whoever destroys, pulls down, damages or defaces any such name, or puts up any name different from that put up by order of the Municipal Council, shall be liable to a fine not exceeding Rs. 20.

Penalty for defacing, etc.

(c) *Watering and Lighting Streets.*

175. (1) The Municipal Council may cause the streets to be watered, and for that purpose may provide such works and engines as they think necessary.

Streets may be watered,

(2) The Municipal Council may cause the streets to be lighted, and for that purpose may provide such lamps and works as they think necessary.

and lighted.

(d) *Fences and Hedges.*

176. The Municipal Council may by notice require the owner <sup>2</sup> [ or ] occupier of any land, <sup>2</sup> [to construct and maintain sufficient fences for such land, or to trim the hedges thereof] so that they may not exceed such height from the level of the adjoining roadway as the Municipal <sup>2</sup> [Council] may from time to time determine, and to trim all trees which, by overhanging any public street, obstruct the passage or cause damage thereto, within a time to be specified in such notice.

Power to call on owner or occupier to maintain fences, or trim hedges and trees.

6. BUILDINGS.

177. The Municipal Council may erect buildings on any vacant land vested in them, and may lease the same on such terms as they deem fit.

Power to erect buildings on vacant ground.

<sup>3</sup> 178. The Municipal Council, or other person authorized by them in writing, may erect or fix to the outside of any building such brackets for telegraphic or telephonic wires or for lamps as they may deem necessary

Power to erect or affix to buildings, brackets, etc.

\* \* \* \* \*

<sup>1</sup> This s. 173-A was inserted by Madras Act III of 1897, s. 114.

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 115.

<sup>3</sup> In respect of Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended s. 178 shall be read with the insertion of the words "or wires to convey electricity" between the words "telegraphic or telephonic wires" and the words "or for lamps"—Madras Act II of 1907, s. 5 (f) (e).

<sup>4</sup> Words repealed by Madras Act III of 1897, s. 116, are omitted.

Roofs and external walls of buildings not to be made of inflammable materials. Application to be made if well or building is to be constructed.

What is to accompany such application.

**179.** The external roofs, verandahs, pandals and walls of buildings erected or renewed after the coming into operation of this Act, shall not be made of grass, leaves, mats or other such inflammable materials except with the written permission of the Municipal Council.

<sup>1</sup> **180.** (1) Every person intending to construct, re-construct or extend a well or building (other than a mere wall) shall, six weeks before beginning to construct, re-construct or extend it, make an application in writing to the Municipal Council for a license to do so.

(2) Such application shall be accompanied by such particulars as the Municipal Council may require under by-laws framed in this behalf, and shall further be accompanied,—

(i) in the case of buildings, by

(a) a plan or statement showing the dimensions of the building and the levels at which it is intended to lay the foundation and lowest floor; and

(b) a statement showing the means of ventilation and drainage and the privies which it is intended to provide; and

(ii) in the case of wells, by a statement showing the dimensions of the well, the manner in which it is to be fenced and, if the well is to be used for drinking purposes, the means which it is intended to take to prevent pollution of the water.

Orders to be passed in six weeks.

(3) Subject to the provisions of sub-section (4), the Municipal Council shall, within six weeks after receipt of the said application, give a license for the construction, reconstruction, or extension of the well or building in respect of which the application is made.

Council may refuse to grant license unless certain conditions complied with.

(4) If the Municipal Council see reason to object, in respect of a building, (a) to the proposed levels of the foundation or lowest floor, (b) to the proposed means for ventilation or drainage, (c) to the proposed latrine accommodation, or (d) to any particular given in respect of such building under by-laws framed as aforesaid; or, if they see reason to object, in respect of a well, (a) to the proposed fencing, (b) to the proposed means of protection from pollution, or (c) to any particular given in respect of such well as aforesaid; they shall specify in the license the alterations in such levels, means, accommodation, fencing or particular which they consider to be necessary and the person to whom the license is granted shall be bound to carry out such alterations.

When applicant may proceed with work.

(5) On receipt of the said license, or if, within the said period of six weeks, the Municipal Council have not granted a license, the applicant may proceed to construct, re-construct or extend, as the case may be, the building or well, in accordance with the particulars, plan (if any) and statement which accompanied his application.

<sup>1</sup> This section was substituted for the original s. 180 by Madras Act III of 1897, s. 117. See also last footnote to s. 47 *supra*.



(6) The Municipal Council may exempt any hut or group of huts from the operation of this section and section 179.

Council may exempt huts from the provisions of this section and section 179.

<sup>1</sup> 181. The Chairman may at any time stop the construction, re-construction or extension of any building or well; if he considers that such construction, re-construction or extension endangers human life, or if it has been undertaken or is being carried out in contravention of the provisions of section 180.

Chairman may stop construction, etc., of building or well.

<sup>2</sup> 181-A. No hut or shed shall be built within fifty yards of any range, group or block of five or more huts or sheds without the permission in writing of the Municipal Council.

Prevention of crowding of huts.

The Municipal Council may refuse to grant permission or may require that such hut or shed shall be—

- (a) built in such a position as they consider necessary for the purpose of ventilation and conservancy;
- (b) provided with such number of privies and with such means of drainage as they consider necessary;
- (c) built at such a level as will admit of drainage; and
- (d) provided with a basement or plinth at least two feet above the level of the nearest public street or road.

<sup>2</sup> 181-B. If any such hut or shed be built without the permission of the Municipal Council or otherwise than as required by the Council, the Municipal Council may give notice to the owner thereof or of the ground upon which the same is built or is being built, by affixing a notice to some conspicuous part of the hut or shed, to take down and remove the same within one month or to effect such alterations as the Municipal Council may deem necessary.

Council may direct removal of hut built without permission.

(a) *Numbers on houses.*

182. (1) The <sup>3</sup>[Chairman] may, from time to time, affix a number in a conspicuous place to the outer door or side of any building, or at the entrance of the enclosure thereof fronting the street.

Numbers on buildings.

(2) Whoever destroys, pulls down, damages or defaces any such number shall be liable to a fine not exceeding Rs. 5.

Penalty for defacing.

<sup>1</sup> This section was substituted for the original s. 181 by Madras Act III of 1897, s. 118. See also last footnote to s. 47 *supra*.

<sup>2</sup> Ss. 181-A and 181-B were inserted by Madras Act III of 1897, s. 119. See also last footnote to s. 47 *supra*.

<sup>3</sup> The word "Chairman" was substituted for the words "Municipal Council" by Madras Act III of 1897, s. 120.

(b) *Ruinous or Deserted Buildings and Dangerous Places.*

Chairman shall provide temporarily for safety of ruinous buildings, etc.

Council may order owner or occupier of such building to take further steps.

Power to require owner to secure, enclose, etc., deserted buildings and lands.

Dangerous places to be repaired or enclosed.

Council may take action if there is no owner or occupier.

<sup>1</sup> **183.** (1) If any building or tree or thing attached thereto appears to the Chairman to be likely to fall or to be in any other way dangerous to the safety of any person or to the security of any building, he shall immediately cause such building, tree or thing to be fenced or otherwise secured in such manner as he thinks necessary, and may recover the cost of so doing from the owner or occupier of the premises to which such building, tree or thing belongs.

(2) The Municipal Council may also give notice to the owner or occupier of the premises to which such building, tree or thing belongs, requiring him, within a time to be specified in such notice, to take such further order with such building, tree or thing as they think necessary.

**184.** If any building or land, by reason of abandonment, disuse, disputed ownership, or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons, or, in the opinion of the Municipal Council, in any manner becomes a nuisance, the Municipal Council, after due inquiry, may give notice to the owner, or to the person claiming to be the owner, if he be known and resident within the Municipal limits, requiring the persons concerned therein, whoever they may be, to secure, enclose, clear or cleanse the same within a time to be specified in such notice, and shall also cause such notice to be put on the door or some conspicuous part of the building or land.

**185.** If any building, tank, well, or hole, or other place, whether on public or private ground, is, for want of sufficient repair, protection or enclosure, dangerous to the public health or safety, the Municipal Council may, by notice, require the owner or occupier of such place or of the land on which such building, tank, well or hole is situated to cause the same to be repaired, protected or enclosed, so as to prevent danger therefrom, within a time to be specified in such notice.

<sup>2</sup> **185-A.** If, after reasonable inquiry, it appears to the Municipal Council that there is no owner or occupier to whom notice can be given under sections 183, 184 or 185, as the case may be, they may themselves take such order with the property mentioned in those sections as may appear to them to be necessary, and may recover the expense incurred by them by the sale of such property (not being land) or of any portion thereof.

(c) *Unwholesome Buildings and Lands.*

Council may direct cleansing and clearing of filthy buildings and lands.

**186.** <sup>3</sup> (1) The Municipal Council may, by general or special notice—

- (a) direct the removal of prickly-pear growing within municipal limits ;
- (b) prohibit the planting of wild croton, prickly-pear, wattle, lantana or other noxious vegetation ; or,

<sup>1</sup> This section was substituted for the original s. 183 by Madras Act III of 1897, s. 121.

<sup>2</sup> S. 185-A was inserted by Madras Act III of 1897, s. 122.

<sup>3</sup> This sub-section was substituted for the original sub-section (1) by Madras Act III of 1897, s. 123.

(c) require the owner or occupier of any building or land, which is in their opinion in a filthy, or unwholesome state, or which is overgrown with trees or with wild croton, wattle, lantana or other noxious vegetation, to cleanse, clear, or otherwise put the same in a proper state within a time to be specified in such notice.

(2) The Municipal Council, or any person generally or specially authorized by them in writing in this behalf, may, by notice addressed to the occupier of any such building, direct all or any part thereof to be internally and externally limewashed or otherwise cleansed in the manner and within a time to be specified in such notice.

Council may require occupier of filthy building to limewash the same.

(d) *Removal of Buildings.*

187. (1) Whenever the Municipal Council consider that any block of buildings in the Municipality is, by reason of the manner in which such buildings are crowded together or of the want of drainage or ventilation and the impracticability of cleansing, attended with risk of disease to the occupiers thereof or to the inhabitants of the neighbourhood, they may cause a notice to be fixed to some conspicuous part of such block, requiring the owners or occupiers thereof, or, at the option of the Municipal Council, the owner of the land on which such buildings are erected, within a reasonable time to be specified in such notice, to execute such works or take such action as the Municipal Council deem necessary for the prevention of such risk.

Power of Municipal Council in case of overcrowded buildings, etc. Notice to be affixed requiring owner or occupier to execute works, or take action.

(2) If such owners or occupiers neglect to execute such works or take such action within the time specified, the Municipal Council may, with the sanction of the Governor in Council, cause such works to be executed or such action to be taken in respect of such buildings, and may, if necessary, cause such buildings or any of them to be pulled down.

Municipal Council may, with sanction of Government, pull down buildings.

(3) In case where under this section a building is pulled down, the Municipal Council shall make to the owner or occupier thereof a reasonable compensation.

Compensation to be made in respect of buildings pulled down.

7. OFFENSIVE AND DANGEROUS TRADES.

<sup>1</sup> 188. (1) At any time, not being less than sixty days before the end of a financial year, the Municipal Council may notify by beat of drum and by notice in the District Gazette that, after the commencement of the following financial year, no place shall be used for any one or more of the purposes specified in the following clauses (a) to (g), unless a license authorizing such use has been obtained from the Chairman :—

If Council so direct, certain trades shall not be exercised without license.

- (a) for depositing or washing soiled clothes ; or
- (b) for boiling paddy, camphor or oil ; or
- (c) for melting tallow or sulphur ; or

<sup>1</sup> This section was substituted for the original s. 188 by Madras Act III of 1897, s. 124.

- (d) for storing, or otherwise dealing with, manure, offal, blood, bones, rags, hides, fish, horns or skins ; or
- (e) for washing or drying wool or hair ; or
- (f) for making fish-oil ; or
- (g) as a soap-house, dyeing-house, dyeing-yard, oil-mill, oil-press, brick kiln, pottery-kiln or lime-kiln ; or
- (h) as a sago manufactory, distillery, manufactory of artificial manure or other manufactory from which offensive or unwholesome smells arise ; or
- (i) as a gunpowder manufactory or manufactory of fire-works ; or
- (j) for the storage of explosive or combustible materials ; or
- (k) for purposes which are likely to be dangerous to human life or health or to property ; or
- (l) as a livery-stable, veterinary infirmary, cart-stand or cattle-shed or as horse-lines ; or
- (m) as a public halting-place , or
- (n) for keeping together twenty or more sheep or goats or ten or more pigs or head of cattle ; or
- (o) for the preparation of flour or articles made of flour ; or
- (p) as a manufactory of ice or of aerated waters ; or
- (q) for the sale or storage of timber, firewood, thatching materials, hay, grass, straw, fibre or coal, or of milk or dairy produce :

Provided that no license shall be required for the storage of timber, firewood, thatching materials, hay, grass, straw, fibre or coal, or of milk or dairy produce, for private use, in such quantities and under such restrictions for safety as the Chairman may direct.

Licenses to be applied for thirty days in advance.

(2) After the issue of a notification under sub-section (1), the following provisions shall apply in respect of all places used for any of the purposes mentioned in the notification, namely :—

- (i) every person intending to open newly any such place shall, not less than thirty days before opening it, apply to the Chairman for a license to do so ;
- (ii) the owner or occupier of every place falling under clauses (a) to (p) of sub-section, (1) and the occupier of every place falling under clause (q) of that sub-section who intends to continue to use it for any of the said purposes shall, not less than thirty days before the expiry of a financial year, apply to the Chairman for a license to continue to so use it during the following financial year.

Chairman may grant, refuse or cancel license.

(3) The Chairman may, at his discretion, grant any license applied for under this section, either unconditionally or subject to such rules as to supervision and inspection and to such conditions as to conservancy and other matters as he thinks proper ; or he may refuse to grant any such license.

He may also at any time suspend, cancel or modify any license which has been granted under this section.

(4) Every license granted under this section shall expire at the end of the financial year in which the place in respect of which the license has been granted is newly opened, or at the end of the financial year for which it has been granted, as the case may be; unless, for special reasons, the Chairman considers that it should expire at an earlier date, when it shall expire at such earlier date as may be specified therein. Licenses expire at end of year.

(5) If the Chairman neglects to pass orders upon an application for a license under this section and to communicate the same to the applicant within thirty days after the receipt of the application, the applicant may open the place in respect of which the application was made or, as the case may be, may continue to use the same during the financial year for which the license was sought; and the said place shall be held to be duly licensed for the financial year during which it was opened or for which the license was sought, as the case may be. When applicant may use place without license.

(6) Every order passed by the Chairman under this section attaching conditions to the grant of a license or refusing, suspending, cancelling or modifying a license shall be in writing and shall state the grounds on which it proceeds, and any person aggrieved by such order may, within one month after receipt of such order, appeal to the Municipal Council who shall pass such orders thereon as they deem fit. Orders of Chairman subject to appeal.

**189.** Whoever, without such license, or after a license has been refused, cancelled or suspended, uses or permits to be used any place for any of the said purposes, or infringes any of the conditions under which such license is granted, shall be liable to a fine not exceeding Rs. 100.<sup>1</sup> \* \* \* Penalty for using place without license.

(a) *Provision of cart-stands, etc.*

**190.** (1) The Municipal Council may, from time to time, provide places for the purpose of being used as cart-stands,<sup>2</sup> [ public landing-places ] or public halting-places, and may levy fees for the use thereof. <sup>3</sup>[The Municipal Council may place the collection of such fees under the management of such persons as may appear to them proper, or may farm out such fees on such terms and subject to such conditions as they may deem fit.] Council may provide cart-stands, etc.

<sup>4</sup>(2) If, upon demand by the person authorized <sup>5</sup> [by the Chairman or Vice-Chairman] to collect, \* \* \* \* \* fees for the use of any such cart-stand, landing-place or halting-place, any person has refused or neglected to pay the prescribed fee, the provisions of sections 95 and 96 shall, *mutatis mutandis*, apply. If free for use of cart-stand, etc., not paid, property may be seized.

<sup>1</sup> Words repealed by Madras Act III of 1897, s. 125, are omitted.

<sup>2</sup> These words were inserted by Madras Act III of 1897, s. 126 (1).

<sup>3</sup> These words in square brackets were added by s. 2 (1) of Madras Act III of 1913, *infra*.

<sup>4</sup> Sub-sections (2) and (2) were added by Madras Act III of 1897, s. 126 (2).

<sup>5</sup> These words in square brackets were added and the words "on behalf of the Municipal Council" were omitted by s. 2 (2) of Madras Act III of 1913, *infra*.

Table of fees to be put up.

(3) A statement, in English and a vernacular language of the district, of the fees prescribed by the Municipal Council for the use of cart-stands, public landing-places and public halting-places shall be put up in a conspicuous part of every place where they are leviable.

#### 8. SLAUGHTER-HOUSES, ETC. .

Municipal Council to provide slaughter-houses.

**191.** (1) The Municipal Council shall provide a sufficient number of places for the purpose of being used as public slaughter-houses, and may levy a fee on each animal slaughtered therein, at rates not exceeding Re. 1 for every head of cattle, and As. 2 for every sheep, goat or pig. <sup>1</sup>[The Municipal Council may place the collection of such fees under the management of such persons as may appear to them proper, or may farm out such fees on such terms and subject to such conditions as they may deem fit.]

Slaughter-houses and butchers' shops to be licensed.

(2) No place in any Municipality shall be used as a slaughter-house or for the slaughtering of any animal intended for food, or for selling or storing for sale <sup>2</sup>[any flesh <sup>3</sup>(or fish) intended for food,] unless a license for such use thereof has been previously obtained from the Chairman :

<sup>3</sup> Provided that no license shall be required for a place used for the selling or storing for sale of preserved flesh or fish contained in air-tight and hermetically sealed receptacles.

No animal to be slaughtered except in slaughter-house, or except during festivals.

(3) No cattle, sheep, goat or pig shall be slaughtered within the Municipality except in a public or licensed slaughter-house.

(4) The Chairman may permit the slaughtering of any animal in such place or places as he thinks fit on occasions of festivals and ceremonies or as a special measure.

Penalty for slaughtering except at a slaughter-house, or drying skins so as to cause nuisance.

**192.** Whoever slaughters, or permits to be slaughtered, cuts up or skins, or permits to be cut up or skinned, any cattle, sheep, goat, or pig, at any place within the Municipality other than a public or licensed slaughter-house or place, except with the written permission of the Chairman, or whoever dries, or permits to be dried, any skin, in such a manner as to cause a nuisance, shall be liable to a fine not exceeding Rs. 20 for each animal or skin.

Government places exempted.

**193.** The provisions of sections 188, 189, 191 and 192 shall not apply to places used by Government for the purposes mentioned in the said sections.

#### 9. MARKETS.

Council may declare a place to be a market.

**\* 193-A.** The Municipal Council may declare any place ordinarily used for the sale of meat, fish, fruit, grain, vegetables or other perishable articles of food, or for the sale of live stock or poultry, to be a market : provided

<sup>1</sup> These words in square brackets were added by s. 2 (1) of Madras Act III of 1913, *infra*.

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 127.

<sup>3</sup> The words "or fish" and the proviso were inserted by Madras Act I of 1899, s. 1 *infra*.

\* S. 193-A was inserted by Madras Act III of 1897, s. 128.

that no such declaration shall be made in respect of any single shop or of any group of shops not being more than three in number, and that any such declaration may at any time, but subject to the provisions of sub-section (2) of section 194, be cancelled by the Municipal Council.

(a) *Public Markets.*

**194.** (1) The Municipal Council may <sup>1</sup> \* \* \* \* charge such rents Municipal Council may and fees as they may deem fit for the use of, or right to expose charge rents goods for sale in, <sup>2</sup> [public markets] and for the use of shops, stalls, sheds, and fees for pens and standings therein. <sup>3</sup> [The Municipal Council may place the collec- use of public tion of such rents and fees under the management of such persons as may appear to them proper, or may farm out such rents and fees on such terms and subject to such conditions as they may deem fit.]

(2) The Municipal Council may, <sup>4</sup> \* \* \* with the sanction of the Gover- Municipal Council may nor in Council, <sup>5</sup> \* \* \* close any such market or any part thereof. close public markets with sanction of Government.

(3) The <sup>6</sup> [Chairman] may expel from any such market any person who, or whose servants, may be convicted of disobeying any by-law made for the regulation and control of such market, and may prevent such person, by him- Power to expel persons breaking regulations, and to determine lease. self or his servants, from further carrying on any trade or business in such market, or occupying any stall, shop or other place therein, and may deter- mine any lease or tenure which such person may have in any such stall, shop or other place.

**195.** Whoever, without the permission of the Municipal Council <sup>7</sup> [or, if Penalty for the Municipal Council has farmed out the rents and fees, of the farmer]. selling in public market without permission. sells or exposes for sale any article within a public market shall be liable to a fine not exceeding Rs. 20 for each offence.

(b) *Private Markets.*

<sup>8</sup> **196.** (1) No place shall be used as a private market, unless the Private markets to be licensed. Municipal Council have granted a license so to use it.

(2) Applications for licenses to open newly, or to continue to use Applications for licenses to be made thirty days in advance. private markets shall be made by the owners thereof not less than thirty days before they open them or before the commencement of the financial year during which they intend to continue to use them, as the case may be.

<sup>1</sup> Words repealed by Madras Act III of 1897, s. 129 (1), are omitted.

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 129 (1).

<sup>3</sup> These words in square brackets were added by s. 3 of Madras Act III of 1913, *infra*.

<sup>4</sup> See last footnote to s. 32 (5) *supra*.

<sup>5</sup> The words "determine to" repealed by Madras Act III of 1897, s. 129 (1), are omitted.

<sup>6</sup> The word "Chairman" was substituted for the words "Municipal Council" by Madras Act III of 1897, s. 129 (3).

<sup>7</sup> These words in square brackets were added by s. 4 of Madras Act III of 1913.

<sup>8</sup> This section was substituted for the original s. 196 by Madras Act III of 1897, s. 130.

Council may grant, refuse or cancel licenses.

(3) The Municipal Council may, at their discretion, grant any license applied for under this section either unconditionally or subject to such rules as to supervision and inspection and to such conditions as to conservancy and other matters as they think proper; or they may refuse to grant any such license. They may also at any time suspend, cancel or modify any license which has been granted under this section.

Notice of grant, etc. of license to be posted up.

(4) When a license to open a market is granted or when a license is refused, suspended, cancelled or modified under this section, the Municipal Council shall cause a notice of such grant, refusal, suspension, cancellation or modification, in English and a Vernacular language of the district, to be posted in some conspicuous place at or near the entrance to the place in respect of which the license was sought.

Licenses to expire at end of year.

(5) Every license granted under this section shall expire at the end of the financial year in which the market in respect of which the license has been issued is newly opened, or at the end of the financial year for which it has been granted, as the case may be.

When market may be used without license.

(6) If the Municipal Council neglect to pass orders upon an application for a license under this section and to communicate the same to the applicant within thirty days after the receipt of the application, the applicant may open the place in respect of which the application was made or, as the case may be, may continue to use such place during the financial year for which the license was sought; and the said place shall be held to be duly licensed for the financial year during which it was opened or for which the license was sought, as the case may be.

Penalty for selling in unlicensed private market.

<sup>1</sup> 197. Every person who sells, or exposes for sale, any article in an unlicensed private market shall be liable to a fine not exceeding twenty-rupees.

*Explanation.*—A market is unlicensed within the meaning of this section, if the license for the use thereof has expired or has been cancelled or suspended.

198. [Owner to apply for license yearly] and

199. [Penalty where license has been refused].

[Repealed by Madras Act III of 1897, section 3. 1.]

Private markets to be properly drained, etc.

200. Every owner, farmer or occupier of <sup>2</sup> [any private market] shall

(i) construct such <sup>3</sup> [approaches, entrances, passages, gates] drains and cess-pits therein as the Municipal Council direct;

(ii) cause such market to be roofed and paved with such materials and in such manner, and provided with such latrines and urinals, of such description and in such position and number, as the Municipal Council direct;

(iii) provide for such supply of water to such market as the Municipal Council direct; and

<sup>1</sup> This section was substituted for the original s. 197 by Madras Act III of 1897, s. 131.

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 132.

<sup>3</sup> These words were inserted by Madras Act III of 1897, s. 132.



- (iv) make such alterations in the stalls, passages, shops, doors, or other parts of the said Market or place as the Municipal Council direct.

**201.** (1) If such owner, farmer or occupier, after notice given to him by the Municipal Council directing him to carry out within a period to be specified in the notice any of the measures provided in the last preceding section, fails to comply with such notice, the Municipal Council may suspend, withhold or refuse the license until the notice shall have been complied with; and any person opening or keeping open any such market after such withholding, suspension or refusal shall be liable to a fine not exceeding Rs. 20 for every day <sup>1</sup> [on which he is convicted of having opened or kept open such market or place.] Penalty for default to drain, etc.

(2) Any owner, farmer, occupier, agent or manager in charge of any <sup>2</sup>[such] market, or of any shop, stall, shed or other place therein, who keeps the same so that it is a nuisance, or who does not cause anything that is a nuisance to be at once removed to a place to be notified by the Municipal Council, shall be liable to a fine not exceeding Rs. 20 for each offence. Penalty for not keeping private market properly, or for not abating nuisance, or for obstructing.

**202.** The Municipal Council or any officer duly authorized by them in that behalf may close <sup>3</sup> [any private market in respect of which no license has been applied for, or any private market] the license for which has been refused, withheld, or suspended. Power to close private market.

(c) *General.*

**203.** (1) The Municipal Council may, from time to time by notification, by beat of drum and by publication in the District Gazette, prohibit the sale, or exposure for sale, of any articles in or upon any specified public street or part of such street, and may, in like manner, cancel, suspend or modify such prohibition. Municipal Council may prohibit sale in street.

(2) Whoever, after such notification, sells, or exposes for sale, any articles in any such street against the terms of such notification shall be liable to a fine not exceeding Rs. 10.

**204.** (1) The <sup>4</sup> [Chairman], or any person appointed by <sup>4</sup> [him] in writing for that purpose, may at all reasonable times enter into and inspect any place used for the sale, either wholesale or by retail, or for the storing, of articles of human food or drink intended for sale, or wherein such articles may be detained, and may examine any such articles which are therein. Chairman may enter and inspect places for sale or storage of articles of food or drink.

<sup>1</sup> These words were substituted for the original words by Madras Act III of 1897, s. 133 (1).

<sup>2</sup> The word "such" was inserted by Madras Act III of 1897, s. 133 (2).

<sup>3</sup> These words were substituted for the words "any market" by Madras Act III of 1897, s. 134.

<sup>4</sup> The words "Chairman" and "him" were substituted for the words "Municipal Council" and "them," respectively, by Madras Act III of 1897, s. 135 (1).

Such articles if unwholesome may be detained and produced before

Magistrate.

Magistrate may order the same to be destroyed.

Magistrate may return articles if in good condition, and order compensation for loss, etc.

Inspection of weights and measures.

Certain persons may be expelled from market.

Latrines and urinals to be provided.

<sup>1</sup> (2) If it appears to the <sup>2</sup>[Chairman] or such person that any such articles are unfit for human food or drink, <sup>3</sup> \*\*he may detain the same, and <sup>4</sup> [may cause them to be produced before any Magistrate].

<sup>1</sup> (3) If the Magistrate finds that such articles are unfit for human food or drink, he shall order the same to be destroyed, or so disposed of as to prevent their being exposed for sale or used for human food or drink.

<sup>1</sup> (4) If the Magistrate finds that the articles so detained were fit for human food or drink, he may make an order <sup>5</sup> [directing the Chairman] to return such articles, or such portion thereof as may be in good condition, to the owner, or to the person in whose possession such articles were found, and to pay to him <sup>6</sup> [from the Municipal Fund] such reasonable amount as the Magistrate considers will compensate such owner or person for any loss or depreciation that may have been caused by such detention.

**205.** The <sup>7</sup>[Chairman], or any persons appointed by <sup>7</sup>[him] in that behalf, may examine and test the weights and measures used in markets and shops in the Municipality with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XIII of the Indian Penal Code.<sup>8</sup>

XLV of 1880.

<sup>9</sup> **205-A.** The person in charge of a public or private market shall expel therefrom any person suffering from leprosy in whom the process of ulceration has commenced or from any infectious or contagious disease who sells or exposes for sale therein any article or who, not having purchased the same, handles any article exposed for sale therein, and he may expel therefrom any person who is creating a disturbance therein.

#### 10. LATRINES, ETC.

**206.** (1) The Municipal Council shall, so far as the funds at their disposal may admit, provide a sufficient number of public latrines and urinals, and shall cause the same to be kept in proper order and to be daily cleansed.

<sup>1</sup> In applying the section to Municipalities to which the Madras Hill Municipalities Act, 1907, extends, or is extended, it shall be read with the insertion of the words "or are adulterated or are not what they are represented to be" between the words "or drink" and "he may detain" in sub-section (2) and between the words "or drink" and "he shall order" in sub-section (3), and with the insertion of the words "or are not adulterated or are what they are represented to be" between the words "or drink" and "he may make" in sub-section (4)—Madras Act II of 1907, s. 3 (1) (f).

<sup>2</sup> The word "Chairman" was substituted for the words "Municipal Council" by Madras Act III of 1897, s. 135 (2).

<sup>3</sup> The words "they or" repealed by Madras Act III of 1897, s. 135 (2), are omitted.

<sup>4</sup> These words were substituted for the original words by Madras Act III of 1897, s. 135 (2).

<sup>5</sup> These words were substituted for the original words by Madras Act III of 1897, s. 135 (3).

<sup>6</sup> These words were inserted by Madras Act III of 1897, s. 135 (3).

<sup>7</sup> The words "Chairman" and "him" were substituted for the words "Municipal Council" and "them," respectively, by Madras Act III of 1897, s. 136.

<sup>8</sup> Genl. Acts, Vol. I.

<sup>9</sup> S. 205-A was inserted by Madras Act III of 1897, s. 137.

(2) No latrine shall be kept in the Municipality for public use without the license of the Municipal Council.

Licensing of public latrines.

(a) *Private Latrines.*

207. (1) The Municipal Council may, by notice, require—

Latrines for private houses.

- (i) the owner or occupier of every building to provide a latrine or alter any existing latrine in accordance with the direction contained in such notice, for the use of persons employed in or about, or occupying such building, and to keep the same in a clean and proper manner, and
- (ii) every owner or occupier of the ground on which any block of six or more huts stands to provide and maintain such latrines as the Municipal Council may prescribe in such notice for the use of the inhabitants of such huts, within a time to be specified in such notice.

(2) Such latrines shall be sufficiently shut out and screened from the view of persons passing by or residing in the neighbourhood.

To be enclosed.

208. The Municipal Council may, by notice in writing, require any person employing workmen, labourers or other persons exceeding twenty in number, to provide and maintain for them in proper order latrines and urinals, to be approved by the Municipal Council, in such number as they may consider necessary.

Latrines, etc., for labourers.

Whoever fails to comply with such requisition within a reasonable time to be specified in such notice shall be liable to a fine not exceeding Rs. 20.<sup>1</sup> \* \*

<sup>2</sup> 209. The Chairman may, subject to the approval of the Municipal Council, contract with the owner or occupier of any building or land to construct or repair any drain, privy, sink-pit or cesspool therein or thereon, upon such terms and subject to such conditions as the Chairman may think fit.

Chairman may contract to construct drains, etc.

11. DRAINS.

210. <sup>3</sup> (1) All drainage works in the Municipality shall be constructed and conserved under the directions of the Municipal Council.

Drainage works to be constructed under the direction of the Municipal Council. Powers of Municipal Council in making public sewers.

(2) The Municipal Council, in making sewers or other drainage works, may, if needful, carry any sewer or drainage work through, across or under any street, garden or other place, or into or under any building, cellar or vault.

<sup>1</sup> Words repealed by Madras Act III of 1897, s. 138, are omitted.

<sup>2</sup> This section was substituted for the original s. 209 by Madras Act III of 1897, s. 139.

<sup>3</sup> This sub-section was substituted for the original sub-section (1) by Madras Act III of 1897, s. 140.

Notice to owner of private property and compensation for injury thereto.

Municipal Council may maintain, repair, alter or close sewers.

Public drains not to be altered without permission. Buildings over sewers, etc., not to be erected without consent of the Municipal Council.

No drains, etc., to be made without permission. Where general drainage-system exists, Council may require, subject to certain provisos, that private persons shall construct drains.

(3) Whenever it is necessary to carry a sewer or other drainage work, through, across or under any private property, the Municipal Council shall give notice to the owner or occupier of such property, and the Municipal Council shall pay reasonable compensation for any injury done to such property by any such sewer or drainage work.

(4) The Municipal Council may maintain and, from time to time, repair and, as they see fit, enlarge, alter, arch over or otherwise improve all or any of the sewers and drainage works vested in them by this Act; and may discontinue, close up, or destroy such of them as they deem unnecessary.

**211.** No person shall, without the written permission of the Municipal Council, make any drain into a public sewer or drain, or stop up, divert, obstruct or in any way interfere with, any public drain or sewer, whether the same passes through public or private ground.

**212.** No building shall be newly erected over any sewer or drain, or any part of any sewer or drain, vested in the Municipal Council by this Act, or upon any ground which has been covered, raised or levelled, wholly or in part, by street sweepings or other rubbish, without the written permission of the Municipal Council.

**213.** <sup>1</sup>[Subject to the provisions of section 209], no drain, privy or cess-pool shall be constructed without the written permission of the Municipal Council.

**213-A.** The Municipal Council of any Municipality wherein there is a system of general drainage may, by notice, require the owner of any building or land or the owners of any group of buildings or lands, to construct a drain of such description as the Municipal Council may direct, so as to connect such building or land, or such group of buildings or lands, with any other drain or with any place set apart by the Municipal Council for the disposal of sewage or drainage: Provided that—

- (i) no requisition shall be made under this section on any person who is entitled under sub-section (5) of section 63 to claim exemption from the taxes on buildings and lands;
- (ii) no person or persons shall be required under this section to carry a drain to a distance of more than one hundred feet beyond the extreme limits of the building or land, or group of buildings or lands, as the case may be, which it is intended to drain by means thereof;
- (iii) no person or persons shall be required under this section to expend upon a drain a sum exceeding five times the amount payable annually by him or them under section 63 on account of the building or land or group of buildings or lands, as the case may be, which it is intended to drain by means of such drain; and, if any

<sup>1</sup> These words were inserted by Madras Act III of 1897, s. 141.

<sup>2</sup> Ss. 213-A and 213-B were inserted by Madras Act III of 1897, s. 142.

sum in excess of the said amount is expended, the excess shall be borne by the Municipal Council.

*Explanation.*—In the case of buildings and lands exempt from taxation under sub-section (1) of section 63, the amount which would be payable under section 63, if such buildings and lands were not so exempt, shall be deemed to be the amount payable on account thereof for the purposes of the third proviso to this section.

**213-B.** For the purpose of ventilating any drain or cesspool, the Municipal Council may erect, or may affix to the outside of any building, such pipes as they think necessary. Such pipes shall be carried to a height of not less than six feet above the highest parts of all adjacent buildings, and shall be so constructed as to cause no inconvenience or annoyance to persons dwelling in the neighbourhood.

**214.** (1) All branch drains, as well within as without the lands or buildings to which they belong, and all private latrines, privies and cesspools within the Municipality shall be under the survey and control of the Municipal Council, and shall be altered, repaired, cleansed and kept in proper order at the cost of the owners of the lands and buildings to which the same belong, or for the use of which they are constructed or continued.

(2) The Municipal Council may, by notice, require the owner of any land or building to which any such latrine, drain, privy, or cesspool belongs, to close or demolish it, or to alter or repair it in such manner as the Municipal Council may think necessary, within a time to be specified in such notice.

**215.** (1) If, upon inspection by the Chairman or other officer authorized by him in that behalf, it appears that such latrine, drain, privy or cesspool is not in good order, or that it has been constructed after the coming into operation of this Act or of the Towns Improvement Act, 1871, in the Municipality and contrary to the provisions thereof, the expenses of such inspection shall be paid by the person to whom such latrine, drain, privy, or cesspool belongs.

(2) If such latrine, drain, privy, or cesspool be found to be in proper order and not to have been constructed contrary to the provisions of this Act or the Towns Improvement Act, 1871, the Chairman or officer as aforesaid shall cause the ground to be closed and made good as soon as may be, and the expenses of opening, closing and making good such latrine, drain, privy, or cesspool shall, in that case, be defrayed by the Municipal Council.

## 12. GENERAL SANITARY REGULATIONS.

**216.** The Municipal Council shall, so far as the funds at their disposal permit, make arrangements for—

(a) the regular sweeping and cleansing of the streets ;

<sup>1</sup> Ss. 213-A and 213-B were inserted by Madras Act III of 1897, s. 142.

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 143.

<sup>3</sup> Ss. 216—222 were substituted for the original ss. 216—222 by Madras Act III of 1897, s. 144.

Council may erect ventilating pipes.

Branch drains, privies, etc., to be under control of Municipal Council and to be kept in order at cost of owners.

Municipal Council may require owner to repair, etc., any drain or privy.

When expense of inspection to be borne by owner.

When such expense to be borne by Municipal Council.

The Council to arrange for the removal of night-soil, rubbish, etc.,

(b) the regular removal from latrines and private houses of night-soil, the carcasses of animals and other offensive matter ; and

(c) the regular removal from dust-bins and private houses of dust, ashes, kitchen-refuse and other similar inoffensive matter ;

and with this object, they shall, so far as the funds at their disposal permit, provide—

(i) depôts for the deposit of street-sweepings, of night-soil, the carcasses of animals and other offensive matter, and of dust, ashes, kitchen-refuse and other similar inoffensive matter ;

(ii) covered vehicles or vessels for the removal of night-soil and other offensive matter ;

(iii) vehicles or other suitable means for the removal of the carcasses of large animals and of dust, ashes, kitchen-refuse and other similar inoffensive matter ; and

(iv) dust-bins for the temporary deposit of dust, ashes, kitchen-refuse and other similar inoffensive matter.

Council may order provision of night-soil receptacles.

**217.** (1) The Municipal Council may, by notification, require all occupiers of buildings within the Municipality or any part thereof, with whom no contract for removal of night-soil or other offensive matter has been made under section 218, to provide, within a period to be specified in such notification, moveable receptacles of a kind to be similarly specified, for the temporary deposit of night-soil or other offensive matter and may, further, require that such receptacles shall be in readiness, screened from public view, for the removal of the contents thereof, free of charge, by the Municipal servants, at such time or times daily as the Municipal Council may think proper.

On failure to comply, Council shall provide at cost of occupier.

(2) After the expiration of the period specified in the said notification, the Municipal Council shall provide receptacles for all persons who have failed to comply with the notification and may recover the cost thereof from such persons : Provided that the Municipal Council shall, in the case of all occupiers or buildings, the annual value whereof is not more than six rupees, supply the said receptacles at the cost of the Municipal Fund.

Cleansing of private latrines, etc.

**218.** The Chairman may contract with the occupier of any building or land to remove night-soil from latrines or cesspools therein or thereon, or to remove any other offensive matter or rubbish generally from such building or land, on such terms as to times and periods of removal and other matters as, to the said Chairman, seem suitable and on payment of fees at such rate or rates as the Municipal Council may have prescribed with the approval of the Governor in Council.

Penalty for improper disposal of filth, etc.

**219.** Every person who, after due provision has been made under section 216 by the Municipal Council for the deposit and removal of the same,—

(i) deposits night-soil, the carcasses of animals or other offensive matter or dust, ashes, kitchen-refuse or other similar inoffensive matter

<sup>1</sup> See footnote to s. 216 *supra*.

in any street, or on the verandah of any building, or on any unoccupied ground alongside any street, or on any public quay, jetty, or landing-place, or on the bank of a water-course or tank or, without the consent of the owner or occupier thereof, in or on any private property ; or

(ii) deposits night-soil, the carcasses of animals or other offensive matter in any dust-bin or in any vehicle not intended for the removal of the same ; or

(iii) deposits any matter other than night-soil or other offensive matter in any vehicle or vessel intended for the removal of night-soil and other offensive matter,

shall be liable to a fine not exceeding ten rupees for each such offence :

Provided that no person shall be liable to such fine by reason that he has mixed dry-earth, sand, ashes or any other substance with night-soil or other offensive matter for the purpose of deodorizing or disinfecting it.

<sup>1</sup> 220. Every person who, after a receptacle has been provided as required in section 217, fails to deposit therein all night-soil and other offensive matter or to keep the same in readiness, screened from public view, at the times fixed by the Municipal Council, or deposits in such receptacle any matter other than night-soil or other offensive matter, shall, subject to the proviso to section 221, be liable to a fine not exceeding ten rupees for each such offence. Penalty for failure to deposit night-soil in receptacle.

<sup>1</sup> 221. Every occupier of a building or land who keeps, for more than twenty-four hours, or otherwise than in a proper receptacle, any night-soil or other offensive matter in such building, or on the roof thereof, or in any out-building or yard, or on any pavement or verandah attached or belonging to such building, or on such land, shall be liable to a fine not exceeding twenty rupees for each such offence. Penalty for keeping night-soil, &c., on premises.

Provided that it shall be lawful for the Magistrate by whom a person is convicted of an offence under this section, in lieu of imposing a fine, to direct that, for a period to be fixed by him, but not exceeding one year, the Municipal Council shall arrange to remove night-soil and other offensive matter from the building or land concerned and that the said person shall pay to the Municipal Council, in return for the performance by them of this duty, such fees as might have been collected from him if he had entered into a voluntary contract under section 218. Magistrate may direct that culprit shall accept Municipal service.

<sup>1</sup> 222. Every occupier of a building or land who allows the water from any sink, drain, privy or stable or any other offensive liquid-matter to flow out of such building or land into any portion of a street except a drain or to flow out of such building or land in such a manner as to cause an avoidable nuisance by the soakage of the said water or other liquid-matter into the Penalty for allowing outflow of offensive liquid.

<sup>1</sup> See foot-note to s. 216 *supra*.

ground at the side of a drain forming a portion of a street shall be liable to a fine not exceeding ten rupees for each such offence.

Penalty for using any cart without cover in the removal of night-soil, &c.

**223.** Whoever, in the removal of night-soil or other offensive matter, uses any cart or receptacle not having a covering proper for preventing the escape of the contents thereof, or of the stench therefrom, or <sup>1</sup> [intentionally or negligently] spills any such offensive matter in the removal thereof, or does not carefully sweep and clean every place in which any such offensive matter has been spilled, or places or sets down in any public place any night-soil or offensive matter whether in a vessel closed or open, shall be liable to a fine not exceeding Rs. 20 for each offence.

Penalty for throwing rubbish, &c., into sewers or drains.

**224.** Whoever puts or causes to be put any earth, dirt, ashes, garden, kitchen or stable-refuse, broken glass, earthenware, rubbish or night-soil into any sewer or drain belonging to the Municipal Council or into any drain communicating therewith, shall be liable to a fine not exceeding Rs. 20 for each offence.

**225.** (*Nuisance by child.*) Repealed by Madras Act III of 1897, section 3 (1).

Penalty for feeding animal on deleterious substances.

**225-A.** Whoever feeds or allows to be fed any animal which is kept for dairy purposes or may be used for food on deleterious substances, filth or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

Municipal Council may take steps to abate overcrowding of buildings.

**226.** (1) Whenever the Municipal Council consider that any building is so overcrowded as to be, or to be likely to become, dangerous or prejudicial to the health of the inhabitants, the Municipal Council may cause proceedings to be taken before a Magistrate to abate such overcrowding, and the Magistrate shall thereupon make such order as he thinks fit.

Penalty for neglect of Magistrate's order.

(2) Any person permitting such overcrowding after the date of such order shall be liable to a fine not exceeding Rs. 10 for <sup>3</sup> [every day after such date upon which he is convicted of having permitted such overcrowding to continue].

Municipal Council to maintain certain wells, &c., in good order.

**227.** The Municipal Council shall maintain in a cleanly condition all wells, tanks and reservoirs which are not private property and may fill them up or drain them when it appears necessary so to do: Provided that no such well, tank or reservoir shall be filled up with any material except building-débris, or clean soil, gravel or sand.

Council may direct owners to cleanse or fill up tanks and wells, and to drain off stagnant water.

**228.** (1) The Municipal Council may, by notice require the owner of any tank or well to cleanse, fence, repair or fill it up, if on inspection it appears likely to be dangerous, <sup>5</sup> [or to prove injurious to the public health].

(2) Or they may, by notice, require the owner or occupier of any land or premises to drain off, or otherwise remove any stagnant water from such

<sup>1</sup> These words were inserted by Madras Act III of 1897, s. 145.

<sup>2</sup> S. 225-A was inserted by Madras Act III of 1897, s. 146.

<sup>3</sup> These words were substituted for the original words by Madras Act III of 1897, s. 147.

<sup>4</sup> This section was substituted for the original s. 227 by Madras Act III of 1897, s. 148.

<sup>5</sup> These words were substituted for the original words by Madras Act III of 1897, s. 149.



land or premises or from any tank or well attached thereto if they consider that such stagnant water is injurious to health or offensive to the neighbourhood.

(3) Such notice may specify the mode in which such cleansing, filling up, repairing, fencing or drainage, or each of such works, is to be effected and the time within which specified portions thereof must be done.

Order may specify mode in which work to be done.

<sup>1</sup> **228-A.** (1) The Municipal Council, on the report of the Sanitary Commissioner that the cultivation of any description of crop, or the use of any kind of manure or the irrigation of land in any specified manner in any place within the limits of the Municipality, is injurious to the public health, may, with the previous sanction of the Governor in Council, by notification, prohibit the cultivation of the crop, the use of the manure, or the irrigation so reported to be injurious, or regulate it by imposing such conditions thereon as may prevent the injury.

Council may, in certain cases, prohibit cultivation within Municipal limits.

(2) When on any land to which the notification applies, that description of crop has been cultivated, that kind of manure has been used, or irrigation has been practised in that manner, during the five years preceding the notification, with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the Municipal Fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

Compensation to be given in certain cases.

**229.** Whoever, not being an officer of Government in the discharge of his duty, or not being provided with a license from the Chairman or from some officer of Government having authority to grant the same, removes earth, sand or other material from, or deposits any matter, or makes any encroachment or obstruction, in or upon, any land or river, estuary, canal, back-water or water-course within the Municipality (not being private property) shall be liable to a fine, not exceeding twenty rupees, for every such offence.

Persons removing sand, &c., from public river, &c., without authority liable to penalty.

**230.** (1) The Municipal Council may, and if so directed by the District Magistrate shall, from time to time, cause to be notified by beat of drum or otherwise that pigs and dogs found straying within certain limits will be destroyed.

Stray pigs and dogs :

(2) Pigs and dogs found straying within such limits after such notification may be destroyed by any person in such manner as the Magistrate of the District may from time to time direct.

may be destroyed.

<sup>2</sup> **230-A.** Whoever, within any Municipality, keeps pigs so as to be a nuisance, shall be liable to a fine not exceeding ten rupees.

Penalty for keeping pigs, so as to be a nuisance.

(a) *Prevention of Infectious Diseases.*

**231.** (1) The Chairman, or any officer duly appointed by him in writing in this behalf, may enter, at any time, after two hours' notice, into any build-

Chairman to have power of entry for purpose of preventing spread of disease.

<sup>1</sup> S. 228-A was inserted by Madras Act III of 1897, s. 150.

<sup>2</sup> S. 230-A was inserted by Madras Act III of 1897, s. 151.

ing or premises in which any <sup>1</sup> \* \* \* dangerous infectious disease is reputed or suspected to exist, for the purpose of inspecting such building or premises.

Inspection to be made between sunrise and sunset.  
Disinfection of houses, &c.

(2) No such inspection shall be made except in the hours between sunrise and sunset.

(3) If the Chairman is of opinion that the cleansing or disinfecting of a building or premises, or of a part thereof, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, he may, by notice, require the <sup>2</sup> \* \* \* occupier to cleanse or disinfect the same within a time to be specified in such notice : <sup>3</sup> [Provided that, if the Chairman considers that immediate action is necessary or that the occupier is, by reason of poverty or otherwise, unable effectually to comply with his requisition, the said Chairman may himself cause such building, premises or articles to be cleansed or disinfected and, for this purpose, may cause such articles to be removed from such building or premises ; and the expenses incurred by the Chairman under this subsection shall be recoverable from the said occupier unless he was, by reason of poverty unable effectually to comply with the said requisition.]

Penalty for selling, &c., infected article.

<sup>4</sup> **231 A.** Every person who, without previous disinfection of the same gives, lends, sells, transmits or otherwise disposes of anything which he knows or has reason to believe to have been exposed to the infection of a dangerous infectious disease, shall be liable to a fine not exceeding fifty rupees :

Provided that nothing in this section shall be deemed to apply to a person who transmits anything, with proper precautions, for the purpose of having the same disinfected.

Chairman to notify places for washing and disinfecting.

**232.** (1) The Chairman <sup>5</sup> [shall] from time to time, notify places at which articles of clothing or bedding or other articles which have been exposed to infection from any dangerous infectious disease may be washed <sup>6</sup> [or disinfected].

Infected articles may be destroyed.

(2) The Chairman may direct the destruction of bedding, clothing or other articles likely to retain <sup>7</sup> [such] infection, and <sup>8</sup> [shall, on demand], give compensation for the articles destroyed.

Penalty.

(3) Whoever washes such clothing or bedding or other articles at any place other than those set apart for such purposes under sub-section (1) of this section, shall be liable to a fine not exceeding Rs. 50.

<sup>1</sup> Words repealed by Madras Act III of 1897, s. 152 (1), are omitted.

<sup>2</sup> The words "owner or" repealed by Madras Act III of 1897, s. 152 (2), are omitted.

<sup>3</sup> This proviso was inserted by Madras Act III of 1897, s. 152 (2).

<sup>4</sup> S. 231-A was inserted by Madras Act III of 1897, s. 153.

<sup>5</sup> The word "shall" was substituted for the word "may" by Madras Act III of 1897, s. 154 (1).

<sup>6</sup> These words were inserted by Madras Act III of 1897, s. 154 (1).

<sup>7</sup> The word "such" was inserted by Madras Act III of 1897, s. 154 (2).

<sup>8</sup> These words were substituted for the original words by Madras Act III of 1897, s. 154 (2).

<sup>1</sup> **232-A.** If the Chief Medical Officer of the district certifies that the water in any well, tank or other place within the limits of the Municipality is likely if used for drinking, to engender or cause the spread of any dangerous disease, the Municipal Council may, by public notice, prohibit the removal or use of such water for drinking and domestic purposes during a period to be specified in such order. Council may prohibit use of uncleanly wells and tanks.

**233.** When a hospital or place for the reception of persons suffering from any dangerous infectious disease is provided within the limits of any Municipality, the Chairman may, on a certificate signed by a <sup>2</sup> [certificated] medical practitioner, <sup>2</sup> [arrange for or] direct, the removal to such hospital or place of any person suffering from a dangerous infectious disease, who is in the opinion of such medical practitioner, without proper lodging or accommodation, or who is lodged in a room occupied by more than one family. Chairman may order removal of patients to hospital.

<sup>3</sup> **233-A.** Every person suffering from a dangerous infectious disease who, without proper precaution against spreading such disease, causes himself to be conveyed in a public conveyance and every person in charge of or accompanying a patient so conveyed, and every person knowing himself to be suffering from any dangerous infectious disease who enters a public conveyance without previously notifying to the owner or driver that he is so suffering, Penalty for travelling in public conveyance while suffering from disease

shall be liable to a penalty not exceeding fifty rupees, and to an additional fine of such amount as the Magistrate shall deem sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting such conveyance.

The amount of any additional fine so imposed shall be awarded by the Magistrate to the owner or driver of the said conveyance: Provided that, if the fine is imposed in a case which is subject to appeal, no such award shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum which the plaintiff shall have received under this section.

<sup>3</sup> **233-B.** No owner or driver of a public conveyance shall be required to convey any person suffering as aforesaid, without payment or tender of a sum sufficient to cover such loss and costs as aforesaid, anything in any Act relating to public conveyances for the time being in force to the contrary notwithstanding. Owner, &c., of public conveyance not bound to carry person suffering from disease.

<sup>3</sup> **233-C.** Every person knowingly letting a house or other building or part of a house or building in which any person has been suffering from a dangerous infectious disease, without having such house or other building Penalty for letting infected house.

<sup>1</sup> S. 232-A was inserted by Madras Act III of 1897, s. 155.

<sup>2</sup> These words were inserted by Madras Act III of 1897, s. 156.

<sup>3</sup> Ss. 233-A, 233-B and 233-C were inserted by Madras Act III of 1897, s. 157.

or part thereof and all articles therein liable to retain infection disinfected to the satisfaction of the Chairman, shall be liable to a penalty not exceeding two hundred rupees.

For the purposes of this section a hotel or lodging-house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging house.

(b) *Disposal of Corpses.*

Municipal Council to provide burial and burning-grounds. Burial-grounds, &c., outside Municipality to be governed by Act and by-laws.

**234.** (1) The Municipal Council <sup>1</sup> [shall] provide a sufficient number of convenient and fitting places for burial <sup>1</sup> [and burning] grounds, either within or without the limits of the Municipality.

(2) Whenever the Municipal Council have provided any such place beyond the Municipality, all the provisions of this Act and all by-laws framed under this Act for the management of such places within the Municipality shall apply to such place.

Burial and burning-grounds to be registered.

**235.** (1) Every owner or person having the control of any place used at the date of the coming into operation of this Act as a burial-ground or burning-ground shall, if such place be not already registered, apply to the Municipal Council to have such place registered.

If no owner, Municipal Council may register or close.

(2) If it appears to the Municipal Council that there is no owner or person having the control of any such place, the Municipal Council shall assume such control and direct it to be registered, or may, <sup>2</sup> \* \* \* with the sanction of the Governor in Council, <sup>3</sup> \* \* \* cause it to be closed.

No burial or burning-ground to be opened without license.

**236.** No new burial-ground or burning ground, whether public or private, shall be opened, or used, after the coming into operation of this Act, unless a license has been granted by the Municipal Council <sup>2</sup> \* \*

A book to be kept of places registered.

**237.** A book shall be kept at the Municipal Office in which places registered under section 235, or licensed under the last preceding section, shall be recorded.

Penalty for burying or burning in unlicensed or unregistered place.

**238.** Whoever in any Municipality buries or burns, or causes or suffers to be buried or burnt, any corpse in any unregistered <sup>4</sup> [or] unlicensed vault grave, burial or burning-ground or other place, private or public, shall be liable to a fine not exceeding Rs. 100.

Notice to be given to Municipal Council of burials, &c.

**239.** The person having control of a burial-ground or burning-ground shall give information to any person appointed by the Municipal Council in that behalf of all burials and burnings which take place in or on such ground.

<sup>1</sup> The words "shall" and "and burning" were substituted for the original words by Madras Act III of 1897, s. 158.

<sup>2</sup> See last foot-note to s. 32 (5), *supra*.

<sup>3</sup> Words repealed by Madras Act III of 1897, s. 159, are omitted.

<sup>4</sup> The word "or" was substituted for the word "and" by Madras Act III of 1897, s. 160.

**240.** (1) If the Municipal Council are satisfied, Where burial or burning-grounds are dangerous to health—  
 that any registered or licensed burial or burning-ground is in such a state as to be, or to be, likely to become, dangerous to the health of persons living in the neighbourhood thereof, or that any such place is overcrowded with graves,  
 and, in the case of a public burial or burning-ground that another convenient place duly authorized for burial or burning, as the case may be, has been provided for the persons who would ordinarily make use of such place, and another convenient place is provided—  
 they may, with the previous sanction of the Governor in Council, issue a notice that it shall not be lawful, after a period of not less than two months to be named in such notice, to bury or burn any corpse in or on such first-mentioned burial or burning-ground. Notice may issue not to bury or burn.

(2) Every such notice shall be published in the District Gazette and in the Municipality by beat of drum. Notice to be published.

(3) Whoever, after the expiration of such period, buries or burns, or causes or permits to be buried or burnt, any corpse contrary to the terms of the notice, shall be liable to a fine not exceeding Rs. 100. Penalty for burying, &c., contrary to notice.

**241.** Whoever—

- (i) buries, or causes to be buried, any corpse, or part of a corpse, in a grave, whether dug or constructed of masonry or otherwise, in such manner that the surface of the coffin, or the surface of the body where no coffin is used, is at a less depth than five feet from the surface of the ground ; or Depth of grave.
- (ii) builds, or digs, or causes to be built or dug, any grave in any burial-ground at a less distance than two feet from the margin of any other existing grave ; or Distance between graves.
- (iii) without the sanction in writing of the <sup>1</sup> [Chairman] or an order in writing of a Magistrate, re-opens a grave already occupied ; or Re-opening graves.
- (iv) brings, or conveys, or causes to be brought or conveyed, a corpse, or part thereof, to any burial or burning-ground, and does not cause the burial or burning of the same to commence within six hours after its arrival at such burning-ground ; or Burial and cremation.
- (v) when burning, or causing to be burnt, a corpse or part of a corpse in any burning-ground, permits the same or any part thereof to remain without being completely reduced to ashes ; or Cremation to be complete.
- (vi) permits the cloths, or other articles connected with the burning of such corpse, to remain at or near such ground without being completely reduced to ashes ; or Cloths, &c., to be burned.
- (vii) carries a corpse or part of a corpse through any street not decently covered ; or Corpses to be decently covered.

<sup>1</sup> The word "Chairman" was substituted for the words "Municipal Council" by Madras Act III of 1897, s. 161.

Leaving  
corpse on  
highway.  
Removal of  
corpse kept  
for dissection.  
Penalty.

- (viii) while carrying a corpse or part of a corpse within the Municipality leaves the same in or near any street for any purpose whatever or  
(ix) removes, otherwise than in a closed receptacle, any corpse or part or a corpse kept or used for the purpose of dissection ;

shall for each offence be liable to a fine not exceeding Rs. 50.

Grave-diggers  
to be licensed.

**242.** All grave-diggers and other attendants at a public burial or burning-ground shall be licensed by the Municipal Council, and any person acting as such without such license shall be liable to a fine not exceeding Rs. 5. Such license may be withdrawn or cancelled at the discretion of the Municipal Council.

### 13. REGISTRATION OF BIRTHS AND DEATHS.

Municipal  
Council to  
keep register  
of births and  
deaths and  
appoint  
Registrars.

**243.** The Municipal Council shall keep in their office a register of all births and deaths in the Municipality, and for this purpose they may divide the Municipality into such districts as they think fit, and shall appoint a person to be Registrar of Births and Deaths within the Municipality, or, in the case of the division of the Municipality into districts, for every district they shall appoint a person to be Registrar of Births and Deaths in such district.

Registrars  
to live in  
their dis-  
tricts.

**244.** (1) Every Registrar shall reside within the Municipality or district of which he is Registrar, and shall cause his name, with the addition of Registrar of Births and Deaths for the Municipality or district for which he is so appointed, written in English and in the Vernacular language of the district, to be placed in some conspicuous place on or near the outer door of his dwelling-house

List of  
Registrars  
and their  
residence to  
be published.  
Municipal  
Council to  
have Register  
Books pre-  
pared.

(2) The Municipal Council shall cause to be printed and published a list containing the name and place of abode of every such Registrar of Births and Deaths in the Municipality.

Registrar to  
inform  
himself of  
and register  
every birth  
and death.

**245.** The Municipal Council shall cause to be prepared and printed a sufficient number of Register Books for making entries of all births and deaths which take place in the Municipality according to such forms and instructions as may, from time to time, be prescribed by the Governor in Council.

**246.** Every Registrar shall inform himself carefully of every birth and of every death which happens in the Municipality or his district after the coming into operation of this Act, and shall learn and register, as soon as conveniently may be after the event, without fee or reward, the particulars required to be registered, according to the forms prescribed as aforesaid, touching every such birth and death, as the case may be, which has not been already registered.

All such entries shall be made consecutively from the beginning to the end of the book.

Information  
of birth to  
be given  
within a  
week.

**247.** (1) The father or mother of every child born in the Municipality or, in the case of the death, illness, absence or inability of the father and mother, some person who was present at or in attendance during, the child-birth, shall, within one week next after the day of every such birth, give

or cause to be given, information to the Registrar, according to the best of his or her knowledge and belief, of the several particulars required to be known and registered touching the birth of such child.

(2) Some one of the persons present at the death, or in attendance during the last illness, of every person dying in the Municipality, or in case of the death, illness, inability or default of all such persons, the occupier of the building, or, if the occupier be the person who has died, some person living in the building in which such death has happened, shall within twenty-four hours give information to the Registrar, according to the best of his knowledge and belief, of the several particulars required to be known and registered touching the death of such person. Information of death to be given.

**248.** (1) In the case of persons being born or dying in any hospital, it shall be the duty of the Medical Officer in charge forthwith to send a notice to the Registrar of the occurrence of any birth or death in the hospital under his charge. Where person dies in hospital, Medical Officer in charge to send notice to Registrar.

(2) Every person who conducts or performs the funeral ceremonies of any person who has died within the Municipality shall, whenever required, furnish to the Registrar such information as he possesses as to the said several particulars. Persons performing funeral to give information.

<sup>1</sup> **248-A.** At any time within one year after the birth of a child, any adult relative of the child may require the Registrar to enter in the Register of births the name of such child. Entry of name of child.

**249.** (1) Every person who has given the information contained in any Register of Births or Deaths under this Act shall sign in the Register his name, description and place of abode, <sup>2</sup> [or, if] he cannot write, shall put his mark in the Register to his name, description and place of abode; <sup>3</sup> [and whoever refuses or neglects so to sign or mark shall be liable to a fine not exceeding five rupees]. Persons giving information to sign or mark the Register.

(2) The Registrar shall forthwith give, free of all charge, to the person who gives information of the birth of a child, an extract under his hand from the Register relating to such birth. Registrar to give extract.

(3) In the case of a person being born or dying in any hospital, the registration of the birth or death shall be deemed to be completed by the entry, in the register, of the written notice received from the Medical Officer in charge of the said hospital prescribed in section 248, without the signature of the Medical Officer to the entry in such Register. But, in case of persons born or dying in hospital, register complete on entry of Medical Officer's notice.

(4) Any person may, at all reasonable times, on payment of a fee of eight annas for each visit, search, in the presence of the Registrar, any Register Search of Birth and Death Registers.

<sup>1</sup> S. 248-A was inserted by Madras Act III of 1897, s. 162.

<sup>2</sup> The words "or if" were substituted for "and if" by Madras Act III of 1897, s. 163 (1).

<sup>3</sup> These words were inserted by Madras Act III of 1897, s. 163 (1).

Custody of  
Birth and  
Death  
Registers.

of Births and Deaths, and may, <sup>1</sup> [on payment of a further fee of eight annas] require the Registrar to give him an extract under his hand from such Register relating to any birth or death registered therein <sup>2</sup> \* \* \*

<sup>3</sup> (5) The Registrar shall have the custody of Registers of Births and Deaths for the Municipality or district thereof for which he has been appointed; and all extracts therefrom given under this section shall be certified by him as provided in section 76 of the Indian Evidence Act, 1872,<sup>4</sup> and may I of 1872. be produced in proof of the entries of which they purport to be copies.

## <sup>5</sup> CHAPTER V.

### MISCELLANEOUS.

Power of  
Governor in  
Council to  
frame forms  
and make  
rules.

**250.** (1) The Governor in Council may, from time to time, frame forms for any proceeding of a Municipal Council for which he considers that a form should be provided, and make rules not inconsistent with this Act—

(a) with respect to the appointment of Municipal Councillors by election, as to the following matters:—

- (i) the qualifications of electors and of the candidates for appointment by election, and the removal and disqualification of Municipal Councillors or candidates;
- (ii) the division of the Municipality or of a part thereof into wards and the number of Municipal Councillors proper for each ward;
- (iii) the provision, if any, to be made for the special representation of any classes of the community;
- (iv) the registration of electors;
- (v) the nomination of candidates, the time of election and the mode of recording-votes; <sup>6</sup> \*

<sup>7</sup> (vi) the conduct of inquiries relating to elections; and

<sup>7</sup> (vii) any other matters regarding the system of representation and election which it may seem expedient to provide for;

(b) with respect to the appointment by election of Chairman;

<sup>1</sup> These words were inserted by Madras Act III of 1897, s. 163 (2).

<sup>2</sup> Words repealed by Madras Act III of 1897, are omitted.

<sup>3</sup> This sub-section was added by Madras Act III of 1897, s. 163 (3).

<sup>4</sup> General Acts, Vol. II.

<sup>5</sup> In applying this Chapter to the Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended, the expression "this Act" wherever it occurs shall, unless there is something repugnant in the subject, or context be deemed to include the Madras Hill Municipalities Act, 1907, also—Madras Act II of 1907, s. 5 (2).

<sup>6</sup> The word "and" at the end of this clause (v) repealed by Madras Act III of 1897, s. 164 (1), is omitted.

<sup>7</sup> Clause (vi) was inserted and the original clause (vi) renumbered as clause (vii) by Madras Act III of 1897, s. 164 (1).



- (c) as to the <sup>1</sup> [qualifications], appointment, fining, suspension, <sup>1</sup> [reduction] and dismissal of the servants of the Municipal Council;
- (d) as to the pensions, gratuities, and compassionate allowances of such servants;
- (e) as to the matters mentioned in sections 113, 121 and 122;
- (f) as to the conditions under which grants-in-aid shall be paid from the Municipal Fund for purposes of education and medical relief;
- (g) as to the conditions on which property vested in the Municipal Council may be transferred by sale, mortgage, lease, exchange, or otherwise;
- (h) as to the intermediate office or offices, if any, through which correspondence between the Municipal Council and the Governor in Council or officers of the Government shall pass;
- (i) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of the Municipal Council;
- (j) as to the accounts to be kept by the Municipal Council, and as to the manner in which such accounts shall be audited and published;
- (k) as to the estimates of receipts and expenditure, returns, statements and reports to be submitted by the Municipal Councils;
- (l) as to the mode in which the officers of Government shall advise and assist Municipal Councils in carrying out the purposes of this Act;<sup>2</sup> \*
- <sup>3</sup> (m) as to the interpellation of the Chairman by the Municipal Councillors; and
- <sup>3</sup> (n) generally, for the guidance of the Municipal Councils and public officers in all matters connected with the carrying out of this Act.

<sup>4</sup> (2) All persons who have been authorized by the Governor in Council under sub-section (1) to conduct inquiries relating to elections shall have, for the purposes of such inquiries, the same powers in regard to the issue of summonses for the attendance of witnesses and the production of documents as are conferred upon Revenue-officers by Madras Act III of 1869 (An Act to empower Revenue-officers to summon persons to attend at their cutcherries for the settlement of matters connected with Revenue administration) and the provisions of sections 2, 3, 4 and 5 of that Act shall apply to summonses issued and to persons summoned by virtue of the powers conferred by this

Power to  
summon  
witnesses,  
of persons  
conducting  
election  
inquiries.

<sup>1</sup> The words "qualifications" and "reduction" were inserted by Madras Act III of 1897, s. 164 (2).

<sup>2</sup> The word "and" repealed by Madras Act III of 1897, s. 164 (3), is omitted.

<sup>3</sup> This clause was inserted, and the original clause (m) altered to clause (n) by Madras Act III of 1897, s. 164 (3).

<sup>4</sup> Sub-sections (2) and (3) were substituted for the original sub-sections (2) and (3) by Madras Act III of 1897, s. 164 (4) and (5).

section and all persons to whom summonses are issued by virtue of the said powers shall be legally bound to obey such summonses.

<sup>1</sup> (3) The rules made and the forms framed by the Governor in Council under this section shall have the force of law.

Rules and forms to have the force of law. Assessment and account-book to be open to inspection.

<sup>2</sup> **250-A.** (1) The assessment books of the Municipality shall be open at all reasonable times and without charge to inspection by any tax-payer or his authorized agent.

(2) The account-books of the Municipality shall be open without charge to inspection by any tax-payer on a day or days in each month to be fixed by the Municipal Council.

Annual estimate of expenditure to be submitted to the Governor in Council.

**251.** (1) The Municipal Council shall furnish, for the sanction of the Governor in Council, a statement or estimate showing the probable receipts and the expenditure which it is proposed by the Municipal Council to incur during the next financial year, and the items in respect of which it is proposed to incur such expenditure, and may also furnish a supplemental estimate providing for any modifications which they may deem it advisable to make in the distribution of the amount to be raised and expended in the <sup>3</sup> [financial year] then current for the purposes of this Act.

Governor in Council to pass orders on estimate.

(2) The Governor in Council may pass such orders as he shall think fit upon the original or supplemental estimate so submitted to him, and such orders shall be binding upon the Municipal Council, and shall be carried out by them so far as the means at their disposal will permit.

An Annual Report of Proceedings, &c., to be submitted.

**252.** The Municipal Council shall furnish an Annual Report to the Governor in Council of their proceedings and statements, in detail, of all the works executed by them and of all sums received and expended by them. Such Annual Report shall be published in the District Gazette <sup>4</sup> [at the cost of the Municipal Fund].

Inspection of Schools, &c., by Government Officers.

**253.** All schools and other institutions of an educational character, and all hospitals, dispensaries, vaccine stations, choultries and other institutions of a charitable character, maintained by the Municipal Council, and all registers, books, accounts, and other documents relating thereto shall, at all times, be open to the inspection of such officers as the Governor in Council may, from time to time, appoint in that behalf.

Appointment of Officers to superintend operations of Municipalities.

**254.** The Governor in Council may, from time to time, appoint such officers as may be required for the purpose of inspecting or superintending the operations of the Municipalities established under this Act, <sup>5</sup> [or of any particular Municipality or Municipalities], and also such secretaries, clerks, and other servants as may be necessary for the exercise of the powers vested

<sup>1</sup> See foot-note to s. 250 (2), *supra*.

<sup>2</sup> S. 250-A was inserted by Madras Act III of 1897, s. 165.

<sup>3</sup> The words "financial year" were substituted for the words "official year" by Madras Act III of 1897, s. 3 (3).

<sup>4</sup> These words were inserted by Madras Act III of 1897, s. 166.

<sup>5</sup> These words were inserted by Madras Act III of 1897, s. 167.

in him, and the duties imposed on him, by this Act, and assign to them such salaries, if any, as he shall think reasonable; and the expense incurred by reason of such appointments shall be defrayed in rateable proportions out of the funds of the several Municipalities established under this Act <sup>1</sup> [or out of the funds of the particular Municipality or Municipalities concerned].

<sup>2</sup> 254-A. (1) Anything contained in this Act notwithstanding, in all cases where—

- (i) the Governor in Council with the consent or for the benefit of the Municipal Council undertakes the construction of any water or drainage works, or
- (ii) the Collector of the district acting under section 33, assumes the execution of any resolution, or
- (iii) the Collector of the district or the Revenue-officer in charge of the division provides for the execution of any work or of the doing of an act under the powers conferred by section 36, or
- (iv) the Governor in Council appoints any person under section 37, sub-section (2), for the performance of any duty,

Exercise by Government officers appointed to carry out water or drainage works of powers exercisable by Municipal Council or Chairman.

the officer appointed by Government to carry out the construction of the water or the drainage works or the Collector of the district or the Revenue-officer in charge of the division or the person appointed by the Governor in Council under section 37, sub-section (2), as the case may be, may, in so far as may be necessary for the proper construction of the water or drainage works or for the execution of the resolution of the Municipal Council or for the execution of the work or of the doing of the act or for the proper performance of the duty, exercise all the powers which, under the provisions of this Act, might be exercised by the Municipal Council or Chairman.

(2) Compensation for any damage caused by the exercise of any powers under clause (1) of this section shall be payable by the Municipal Council, provided that the person sustaining the damage was not himself in default in the matter.

Payment by Municipal Council of compensation for damage. Municipal Council empowered to make By-laws.

<sup>3</sup> 255. (1) The Municipal Council <sup>4</sup> \* \* may, from time to time, make by-laws, and cancel, or alter the same—

- (i) for regulating the time and mode of collecting the tolls and taxes mentioned in this Act;

<sup>1</sup> See foot-note to s. 254, *supra*.

<sup>2</sup> Section 254-A was inserted by Madras Act V of 1909, s. 4, *infra*.

<sup>3</sup> In its applications to Municipalities to which the Madras Hill Municipalities Act, 1907 extends or is extended section 255 shall be read with the addition of the following three clauses after clause (iv):—

- “(iv-a) relating to building sites, the construction and re-construction of buildings and the laying out of streets;
- (iv-b) for the inspection of milch cattle and for the inspection, reconstruction, ventilation, lighting, drainage and water-supply of dairies and cattle-sheds (whether within or without the Municipal limits) in the occupation of persons following within the Municipality the trade of dairyman or milk-seller;
- (iv-c) for enforcing the cleanliness of stores and shops for milk or dairy-produce and of vessels used for containing milk or dairy produce intended for sale or used by such persons as aforesaid”—Madras Act II of 1907, s. 5 (1) (g).

<sup>4</sup> See last foot-note to s. 32 (5), *supra*.

- (ii) for regulating the conduct of persons employed by them ;
- <sup>1</sup>(iii) for the management of markets, slaughter-houses, burial or burning-grounds and offensive trades ; for regulating or prohibiting the planting of trees ; and, generally, for the management of all matters connected with conservancy ;
- (iv) for securing cleanliness, safety and order in the streets ;
- (v) for carrying out all the purposes of this Act ; and
- (vi) generally, for securing the good government and well-being of the Municipality ;

and may affix fines and penalties for the infringement of such by-laws.

**Infringement  
of By-law.**

(2) No by-laws shall be repugnant to any law in force, and no fine for any one infringement of a by-law shall exceed Rs. 50, and, in case of a continuing infringement, no fine shall exceed Rs. 10 for every day after notice from the Municipal Council of such infringement.

**Confirmation  
of By-laws.**

(3) No by-law or cancelment or alteration of a by-law shall have effect until the same shall have been approved and confirmed by the Governor in Council.

**By-laws to  
have the  
force of law.**

(4) All by-laws, when they shall have been duly confirmed, <sup>2</sup> \* \* shall have the force of law.

3 \* \* \* \* \*

**Publication  
of rules or  
by-laws.**

**256.** (1) The Governor in Council and Municipal Council shall, before making or altering any rules or by-laws under section 250 or 255, publish <sup>4</sup> \* \* \* a draft of the proposed rules or by-laws and alterations, together with a notice specifying a date at or after which such draft will be taken into consideration, and shall, before making the rules or by-laws or alterations, receive and consider any such objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified.

**Rules and  
by-laws not  
to have effect  
until after  
three  
months.**

(2) Such rules or by-laws and alterations thereof, made by the Governor in Council or the Municipal Council under section 250 or 255, shall be published in the local Gazette of the district in English and a Vernacular language of the district and shall not come into operation <sup>5</sup> [unless the Governor in Council shall, for any special reason, otherwise direct] until three months after they have been so published.

**Copies of  
Act, rules,  
and by-laws  
to be sold at  
the Municipal  
Office at  
cost price.**

**257.** Complete copies, in English and in a Vernacular language of the district—

- (i) of this Act, and

<sup>1</sup> This clause was substituted for original clause (iii) by Madras Act III of 1897, s. 168 (1).

<sup>2</sup> Words repealed by Madras Act III of 1897, s. 168 (2), are omitted.

<sup>3</sup> Sub-section (5) repealed by Madras Act III of 1897, s. 3 (1), is omitted.

<sup>4</sup> Words repealed by Madras Act III of 1897, s. 169 (1), are omitted.

<sup>5</sup> These words were inserted by Madras Act III of 1897, s. 169 (2).

(ii) of all rules framed by the Governor in Council under clauses (a) and (b) of section 250, sub-section (1), and in force for the time being,

(iii) of all by-laws in force for the time being,

shall be kept at the Municipal Office and shall be sold to the public at cost price.

**258.** No act of a Municipal Council or of any Committee or of any person acting as a Chairman or Municipal Councillor shall be deemed to be invalid by reason only of some defect in the establishment of the Municipality or in the appointment of the Chairman or Municipal Councillor, or on the ground that they, or any of them, were disqualified for such office, or by reason of such act having been done during any vacancy in the Municipal Council.

Acts of Municipal Council, &c., not to be invalidated by informalities.

**259.** Every Municipal Councillor shall be liable for the loss, waste or misapplication of any money or other property belonging to the Municipal Council, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct, and a suit for compensation may be instituted against him by the Municipal Council or by the Secretary of State for India in Council.

Liability of members for loss, waste or misapplication.

**260.** If any Municipal Councillor or servant of a Municipal Council is, otherwise than with the permission in writing of the Collector of the district, directly or indirectly interested in any contract made with the Municipal Council, he shall be deemed to have committed an offence under section

Penalty on Municipal Councillor or servant being interested in contract made with Municipal Council.

**XIV of 1860.** 168 of the Indian Penal Code<sup>1</sup> :

Provided that no person shall, by reason of being a shareholder in, or member of, any <sup>2</sup>\* \* company, be held to be interested in any contract entered into between such company and the Municipal Council,<sup>3</sup> [unless he is a Director of such company].

**261.** (1) No action shall be brought against the Municipal Council, or against any Municipal Councillor or servant, or against any person acting under the directions of the Municipal Council, or of a Municipal Councillor or servant, on account of any act done, or purporting to be done, in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, until the expiration of one month after notice in writing has been delivered or left either at the office of the Municipal Council, or at the place of abode of such Municipal Councillor or servant or of such person, explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and

No action to be brought against Municipal Council, &c. without one month's notice.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> Words repealed by Madras Act III of 1897, s. 170, are omitted.

<sup>3</sup> These words were added by Madras Act III of 1897, s. 170.

<sup>4</sup> This section was substituted for the original s. 261 by Madras Act III of 1897, s. 171.

place of abode of the intended plaintiff; and, unless such notice be proved to have been so delivered or left, the Court shall find for the defendant.

If tender of compensation made, award to be limited.

(2) If the Municipal Council, Municipal Councillor or servant or other person to whom notice is given as provided in sub-section (1) shall, before action is commenced, have tendered sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

Action to be commenced within six months.

(3) No action such as is described in sub-section (1) shall, unless it is an action for the recovery of immoveable property or for a declaration of title thereto, be commenced otherwise than within six months next after the accrual of the cause of action.

Action not to be brought against Chairman.

(4) No action shall be brought against the Chairman on account of any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged default on his part in the execution of this Act, if such act was done or if such default was made in good faith; but all such actions shall, so far as they are maintainable in a Court, be brought against the Municipal Council, except when the action is brought by the Municipal Council or the Secretary of State for India in Council under section 259 on account of anything done by the Chairman himself.

Assessments, &c., not to be impeached.

**262**<sup>1</sup>. (1) No assessment or demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reason of any clerical error or by reason of any mistake (a) in respect of the name, residence, place of business or occupation of any person, or (b) in the description of any property or thing, or (c) in respect of the amount assessed, demanded or charged: provided that the provisions of this Act have been, in substance and effect, complied with. And no proceedings under this Act shall, for defect in form, be quashed or set aside by any Court of Justice.

No suit or recovery of sums collected.

<sup>1</sup> (2) No suit shall be brought in any Court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment, or collection of money made under the said authority: provided that the provisions of this Act have been, in substance and effect, complied with.

Distrain not unlawful for want of form.

(3) No <sup>2</sup> [distrain] or sale under this Act shall be deemed unlawful nor shall any person making the same be deemed a trespasser, on account of any error, defect or want of form in the bill, notice, schedule, form, summons, notice of demand, warrant of <sup>2</sup> [distrain], inventory, or other proceeding relating thereto; nor shall such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him:

<sup>1</sup> Sub-sections (1) and (2) were substituted for the original sub-sections (1) and (2) by Madras Act III of 1897, s. 172 (1).

<sup>2</sup> The word "distrain" was substituted for the word "distress" by Madras Act III of 1897, s. 172 (2).

Provided that every person aggrieved by such irregularity may recover satisfaction for any special damage sustained by him :

<sup>1</sup> 263. If, under this Act, the license or written permission of the Chairman or the Municipal Council is necessary for the doing of any act in respect of any property, moveable or immoveable, public or private, and if such act is done (a) without such license or permission, or (b) in a manner inconsistent with the terms of such license or permission, then

Special damage actionable. Consequence of failure to obtain license, &c., or breach of same.

- (i) the Municipal Council may, by notice, require the person so doing such act to alter, remove, or, as far as practicable, restore to its original state the whole, or any part, of such property, within a time to be specified in such notice ; and, further,
- (ii) if no penalty has been specially provided in this Act for so doing such act, the person so doing it shall be liable, on conviction before a Magistrate, to a fine, not exceeding fifty rupees, for every such offence.

<sup>2</sup> 264. (1) If a notice has been given under the provisions of this Act to any person requiring him to execute any work in respect of any property, moveable or immoveable, public or private, or to provide or do or refrain from doing anything, within a time specified in the notice, and if such person fails to comply with such notice, then, subject to the provisions of sections 213-A and 217

Failure to comply with notice.

- (i) the Municipal Council may cause such work to be executed, or such thing to be provided or done, and may recover all reasonable expenses incurred by them on such account from the said person ; and, further,
- (ii) if no penalty has been specially provided in this Act for failure to comply with such notice, the said person shall be liable, on conviction before a Magistrate, to a fine, not exceeding twenty rupees, for every such offence.

(2) The Municipal Council, in causing, under sub-section (1), any work to be executed or anything to be provided or done, may utilize any materials found on the property concerned or may sell them and apply the sale-proceeds towards the payment of the expenses incurred by them on this account.

<sup>3</sup> 264-A. Where by this Act or by any order or notice issued thereunder, the public or any person is required to do or to refrain from doing anything any person who fails to comply with such requisition shall, if no penalty has been specially provided in this Act for such failure, be liable on conviction by a Magistrate to a fine not exceeding twenty rupees for every such failure.

General penal clause.

<sup>1</sup> This section was substituted for the original s. 263 by Madras Act III of 1897, s. 173.

<sup>2</sup> This section was substituted for the original s. 264 by Madras Act III of 1897, s. 174.

<sup>3</sup> S. 264-A was inserted by Madras Act III of 1897, s. 175.

Occupier may be required to pay rent to Council on default by owner.

<sup>1</sup> **265.** (1) If the person to whom the notice mentioned in section 264 has been given is the owner of the property in respect of which it is given, the Municipal Council may (whether any action or other proceeding has been brought or taken against such owner or not), require the person, if any, who occupies such property, or any part thereof, under such owner, to pay to the Municipal Council, instead of to the owner, the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 264, or to such smaller amount as the Municipal Council may think proper :

and any amount so paid shall be deducted from the amount payable by the said owner.

(2) For the purpose of deciding whether action should be taken under sub-section (1), the Municipal Council may require any occupier of property to furnish information as to the sum payable by him as rent on account of such property and as to the name and address of the person to whom it is payable ; and such occupier shall be bound to furnish such information.

Occupier, in default of owner, may execute works and deduct expenses from his rent.

**266.** Whenever default is made by the owner of any building or land in the execution of any work required by the Municipal Council to be executed the occupier of any such building or land may cause such work to be executed; and the expenses thereof shall be paid to him by the owner, or the amount may be deducted by the occupier from the rent from time to time becoming due from him to such owner.

Occupier may recover payment made on behalf of owner.

<sup>2</sup> **266-A.** If the occupier of any building or land makes, on behalf of the owner thereof, any payment for which, under this Act the owner, but not the occupier, is liable, such occupier may recover the amount so paid by him, by deducting the same from the rent payable by him in respect of such building or land to such owner.

Fees for certain licenses, etc.

**267.** (1) When any license, sanction, permission or registration is granted under the provisions of this Act, a fee may be charged for such license, sanction, permission or registration.

Rate of fee to be fixed by Council.

(2) The rates of the fees to be so charged shall be, from time to time, fixed by the Municipal Council, subject to the approval of the Governor in Council.

Licenses, etc. to specify the period during which they are in force.

<sup>3</sup> **267-A.** Except when otherwise provided by this Act every license issued or permission granted under this Act shall specify a period during which it shall remain in force.

Payments for unauthorized occupation of lands.

**268.** If any person, without the previous sanction of the Municipal Council occupies any land belonging to such Municipal Council, he shall pay in respect of such occupation such sums as may be demanded from time to time by the said Municipal Council.

<sup>1</sup> This section was substituted for the original s. 265 by Madras Act III of 1897, s. 176.

<sup>2</sup> S. 266-A was inserted by Madras Act III of 1897, s. 177.

<sup>3</sup> S. 267-A was inserted by Madras Act III of 1897, s. 178.



<sup>1</sup> 269. All expenses incurred by the Chairman or the Municipal Council and recoverable by him or them, and all rents (not being rents for vacant lands, or for buildings demised by the Municipal Council under section 177), fees, tolls and other payments due to the Municipal Council under the provisions of this Act, or under any by-law made under section 255 or under any contract made in accordance with section 147, 209 or 218, shall, if there is no special provision for their recovery contained in this Act, be recoverable as if they were taxes due to the Municipal Council under this Act. Fees, etc., - recoverable as taxes.

<sup>1</sup> 269-A. No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced under section 163, in respect of any sum due to the Municipal Council under this Act, after the expiration of a period of three years from the date upon which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum. No distraint suit or prosecution after three years.

270. If any property, moveable or immoveable, is sold under the provisions of this Act, and if there is a surplus, after the sum due to the Municipal Council shall have been deducted from the sale-proceeds, such surplus shall, if the owner of the property sold claims the same within six months from the date of the sale, be paid to him by the Municipal Council, but if no such claim is preferred within such time the said surplus shall be <sup>2</sup> [credited to the Municipal Fund; and no suit shall lie for recovery of any sum so credited.] Surplus sale-proceeds to be credited to Municipal fund after six months.

271. (1) Every bill, notice, or form, regarding any valuation, measurement, or assessment, tax, any money due in respect of the same, or under this Act, shall, if practicable, be presented to, or served personally upon, the person to whom the same is addressed, or, if he cannot be found, may be left at his usual or last-known place of abode or business with some adult member of his family, servant or agent, or may be sent by registered letter, or may be put upon some conspicuous part of his usual or last-known place of abode or business, and shall thereby be deemed to have been duly presented or served. Service of bills, notices, etc.

(2) If the place of abode or business of the owner of any building or land, in respect of which a tax is assessed or due, or in respect of which any work has to be executed, be unknown, or if the owner of any such building or land be not resident within the limits of the Municipality, every such bill, notice, or form, shall be deemed to be duly presented or served, if delivered to any adult occupier or put upon some conspicuous part of the building or land in respect of which the tax is assessed or due, or in respect of which such work has to be executed. If place of abode be unknown, such notice may be affixed on land, etc.

(3) Any such bill, notice or form sent to any person by registered post shall be addressed to his usual or last-known place of abode or business, and when so sent shall be held to have been duly served, unless and until the contrary be proved. Bills, etc. sent by post duly served.

<sup>1</sup> Ss. 269 and 269-A were substituted for the original s. 269 by Madras Act III of 1897, s. 179.

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 180.

Period mentioned in notice to date from service of such notice.

(4) Whenever in any bill, notice or form served under this Act, a period is fixed within which tax or other sum is to be paid, or any work executed, or anything provided, such period shall,<sup>1</sup> [in the absence from this Act of any distinct provision to the contrary], be calculated from the date of such service.

Owner to be proceeded against, first, and in his absence the occupier.

**272.** (1) Whenever it is provided in this Act that any notice shall or may be served on, or any demand be made on, or any action be taken against, "the owner or occupier" of any building or land, such notice shall be served, or such demand made on, or action taken against, the owner in the first instance and shall be served on, or made on, or taken against, the occupier, only when the owner cannot be found or is not resident within Municipal limits.

Obligation to rest with owner in first instance.

<sup>2</sup> (2) Whenever, by this Act, an obligation is imposed upon the "owner or occupier" of any property, the obligation shall rest upon the owner in the first instance and upon the occupier, only when the owner cannot be found or is not resident within Municipal limits.

Proceedings in case of occupier opposing execution of Act.

**273.** (1) If the occupier of any building or land prevent the owner thereof from carrying into effect, in respect of such building or land, any of the provisions of this Act, after notice of his intention so to do has been given by the owner to such occupier, the Municipal Council, upon proof thereof, may give an order in writing, requiring such occupier to permit the owner to execute all such works with respect to such building or land as may be necessary for carrying into effect the provisions of this Act.

(2) If, after the expiration of eight days from the date of the service of such order, such occupier continue to refuse to permit such owner to execute such works, such occupier shall, for every day<sup>3</sup> [upon which he is convicted of having continued so to refuse permission] be liable to a fine not exceeding Rs. 50.

Owner absolved.

(3) Every such owner, during the continuance of such refusal, shall be discharged from any fine or penalty to which he might otherwise have become liable by reason of default in executing such works.

Power to enter upon lands for the purposes of Act.

**274.** (1) The<sup>4</sup> [Chairman or any person authorized by him in this behalf] may, with the consent of the occupier of any building or land, or after giving six hours' notice to such occupier, \* \* \* between sunrise and sunset, enter into and upon any building or land, either for the purpose of making any survey or inspection or for doing any other act necessary for carrying out the purposes of this Act, without being liable to any legal proceedings or

<sup>1</sup> These words were inserted by Madras Act III of 1897, s. 181.

<sup>2</sup> This sub-section was substituted for the original sub-section (1) by Madras Act III of 1897, s. 182.

<sup>3</sup> These words were substituted for the original words by Madras Act III of 1897, s. 183.

<sup>4</sup> These words were substituted for the words "Municipal Council" by Madras Act III of 1897, s. 184.

<sup>5</sup> Words repealed by Madras Act III of 1897, s. 184, are omitted.

molestation whatsoever on account of such entry or of anything done in any part of such building or land, in pursuance of this Act.

(2) If any woman, who, according to the customs of the country, does not appear in public, is in the actual occupation of any building or part thereof into which any person, duly authorized in that behalf, has to enter for the purposes of this Act, such person shall inform such woman that she is at liberty to withdraw, and shall, after allowing reasonable time for such woman to withdraw, and giving her every reasonable facility to withdraw, enter such building or part thereof, using at the same time every precaution, consistent with these provisions, to prevent, when necessary, the clandestine removal of property.

275. (1) The <sup>1</sup>[Chairman or any person authorized by him in this behalf] may enter upon the land of any person adjoining to, or being within the distance of twenty-yards of, any works authorized by this Act, for the purpose of depositing upon such land any soil, gravel, sand, lime, brick, stone or other materials, or for any other purposes connected with the carrying on of such works, without making any previous payment, tender, or deposit.

(2) The <sup>2</sup>[Chairman or the person authorized by him as aforesaid] shall cause as little damage as may be in the exercise of the powers <sup>4</sup>[conferred by sub-section(1)] and <sup>3</sup>[the Municipal Council] shall make compensation for such temporary occupation of, or temporary damage to, the said land to the owner and occupier thereof, and shall make compensation to the owner also for the permanent injury (if any) to such land.

(3) Before the <sup>4</sup>[Chairman or the person authorized by him as aforesaid] makes any such temporary use of land adjoining or lying near to any such work, <sup>5</sup>[he] shall give seven days' notice of <sup>7</sup>[his] intention to the owner and occupier of such land, and shall, if required by any such owner or occupier to do so, mark off by sufficient fences so much of the land as is required to be used as aforesaid from the other land adjoining thereto.

276. <sup>1</sup>[Whenever the Chairman or the Municipal Council shall have] set apart any place for any purpose authorized by this Act, or <sup>6</sup>[shall have prohibited] the doing of any act or thing in any place, <sup>7</sup>[he or] they shall at once cause to be put up a notice in English and a Vernacular language of the district at or near such place. Such notice shall specify the purpose for which such place shall have been set apart, or the act or thing prohibited.

<sup>1</sup> These words were substituted for the original words by Madras Act III of 1897, s. 185(1)

<sup>2</sup> These words were substituted for the original words by Madras Act III of 1897, s. 185(2)

<sup>3</sup> These words were inserted by Madras Act III of 1897, s. 185(2).

<sup>4</sup> These words were substituted for the original words by Madras Act III of 1897, s. 185(3).

<sup>5</sup> The words "he" and "his" were substituted for the words "they" and "their" by Madras Act III of 1897, s. 185(3).

<sup>6</sup> These words were substituted for the original words by Madras Act III of 1897, s. 186.

<sup>7</sup> The words "he or" were inserted by Madras Act III of 1897, s. 186.

Entry into  
zenana.

Power of  
Chairman  
to enter on  
lands  
adjacent  
to works.

Compensa-  
tion for  
temporary  
occupation  
of land, or  
for injury  
thereto.

Previous  
notice to  
owner or  
occupier.

Notice for  
setting apart  
public places.

**277. (1) Whoever—**

Penalty for obstructing Municipal Council, etc., in their duty.

- <sup>1</sup> (i) obstructs or molests the Municipal Council, or any Municipal Council-  
lor or any person employed by them or him, or any person with  
whom they or he have or has contracted, under the provisions  
of this Act, in the performance of their or his duty, or prevents,  
or tries to prevent, any person, from doing anything which he is  
empowered, or required, to do by virtue of this Act, or
- (ii) removes any mark set up for the purpose of indicating any level or  
direction incidental to the execution of any work authorized  
by this Act,

shall be liable to a fine not exceeding Rs. 50-

Penalty for removing or destroying notice.

- (2) Whoever removes, destroys, defaces or otherwise obliterates any notice  
put up or exhibited by the Municipal Council, or under their orders, shall be  
liable to a fine not exceeding Rs. 50.

Compensation may be made out of the Municipal Fund.

**278.** The Municipal Council <sup>2\*</sup> \* may make compensation, out of the  
Municipal Fund, to all persons sustaining any damage by reason of the exer-  
cise of any of the powers vested in the Municipal Council, <sup>3</sup>[the Chairman or  
the Municipal] servants under and by virtue of this Act.

Acquisition of land under Act I of 1894.

**279.** Where any land, whether within or without the limits of a Muni-  
cipality, is required for the purposes of this Act, the Governor in Council may,  
at the request of the Municipal Council, proceed to acquire it under the pro-  
visions of the Land Acquisition Act, <sup>4</sup>[1894], and, on payment by the Muni-  
cipal Council of the compensation awarded under that Act, the land shall vest  
in the Municipal Council.

No prosecution to be commenced by private person.

<sup>5</sup> **280.** No person shall be tried for any offence against the provisions of  
this Act or of any by-law made under section 255 except upon complaint  
made by the Police or by the Municipal Council or by the Chairman or by a  
person expressly authorized in this behalf by the Municipal Council or the  
Chairman. But nothing herein contained shall affect the provisions of sec-  
tion 191 of the Code of Criminal Procedure 1882<sup>6</sup>, in regard to the power of X of 1882.  
certain Magistrates to take cognizance of offences upon information received  
or upon their own knowledge or suspicion.

Liability for damage to Municipal property.

<sup>7</sup> **281.** If any person, through any act, neglect or default whereby he has  
become liable to a fine under this Act, has caused any damage to the property  
of the Municipal Council, the said person shall be liable to compensate the  
Municipal Council for such damage; and the Magistrate before whom he is

<sup>1</sup> This clause was substituted for the original clause (i) by Madras Act III of 1897, s. 187.

<sup>2</sup> See last footnote to s. 32(5) *supra*.

<sup>3</sup> These words were substituted for the words "or their" by Madras Act III of 1897, s. 188.

<sup>4</sup> The figures "1894" were substituted for the figures "1870" by Madras Act III of 1897, s. 189.

<sup>5</sup> This section was substituted for the original s. 280 by Madras Act III of 1897, s. 190.

<sup>6</sup> See now Act V of 1898, Genl. Acts, Vol. V.

<sup>7</sup> This section was substituted for the original s. 281 by Madras Act III of 1897, s. 191.

being prosecuted in respect of such act, neglect or default shall, upon application in this behalf by the Chairman, assess the amount of such compensation.

**282.** (1) Every Police-officer shall give immediate information to the Chairman or the servants of the Municipal Council of any offence committed contrary to the provisions of this Act or the by-laws made in pursuance thereof, and shall help them in giving effect to the provisions of this Act in such manner and at such times as may be necessary.

Police-officers to report offences to Municipal Council.

(2) Any Police-officer may arrest any person committing in his view any offence against any of the provisions of this Act, if the name and address of such person be unknown to him, and if such person decline to give his name and address, or if the Police-officer shall have reason to doubt the accuracy of such name and address if given; and such person may be detained at the station-house until his name and address shall be correctly ascertained.

Power to Police to arrest persons committing offences in their view.

(3) Any Police-officer, who omits or refuses to perform any duty imposed on him by this Act, shall be deemed to have committed an offence under section 10, Act XXIV of 1859.

Penalty.

<sup>1</sup>(4) Upon the recommendation of the Municipal Council any servant of the Municipality or any class of such servants may be empowered by the Governor in Council to exercise the powers of a Police-officer for the purposes of this Act.

Investiture of Municipal servants with Police-powers.

<sup>2</sup>**282-A.** (1) In the absence of a written contract to the contrary, every scavenger employed by a Municipal Council shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it,

Scavengers entitled to notice of discharge.

(2) Should any scavenger employed by a Municipal Council, in the absence of a written contract authorizing him so to do, and without reasonable cause, resign his employment or absent himself from his duties without giving one month's notice to the Municipal Council, or neglect or refuse to perform his duties, or any of them, he shall be liable to imprisonment which may extend to two months.

(3) The Governor in Council may by notification direct that, on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to scavengers shall apply also to any specified class of Municipal servants whose functions intimately concern the public health or safety.

Similar provisions may be applied to certain other Municipal servants.

**283.** If any person who is required by the provisions of this Act or by any notice or other proceeding issued thereunder to furnish any information—

Penalty for omission to give information.

(i) omits to furnish the same, or

<sup>1</sup> This sub-section was added by Madras Act III of 1897, s. 192.

<sup>2</sup> S. 282-A was inserted by Madras Act III of 1897, s. 193.

- (ii) knowingly or negligently furnishes false information, such person shall be liable to a fine not exceeding Rs. 100.

Illegal collection of taxes and tolls.

**284.** (1) Every person who,

- (i) not being appointed or duly authorized to collect the taxes and tolls and other sums due to the Municipal Council under this Act, shall levy or demand any tax, toll or sum, or
- (ii) shall unlawfully <sup>1</sup>[or] extortionately demand or take any other or higher tax, toll or sum than the lawful tax, toll or sum, or
- (iii) under colour of this Act shall seize or sell any property, knowing such seizure <sup>1</sup>[or] sale to be unlawful, or
- (iv) in cases where he shall be entitled to recover from any person any portion of the tax paid by himself under this Act, shall demand or claim any higher portion than he is entitled to recover, or
- (v) shall in any manner extort any money or any valuable thing from any person under colour of this Act,

shall be liable to a fine not exceeding Rs. 500.

**285.** (*Prosecution before Magistrate.*) *Repealed by Madras Act III of 1897, section 3(1).*

Offender may be detained in custody, or compelled to give security if fine, etc., be not forthwith paid.

**286.** (1) In case any fine, <sup>2</sup>[compensation], penalty or costs, imposed <sup>3</sup>[or assessed by a Magistrate] under, or by virtue of, this Act or of any by-law made in pursuance thereof, shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to a warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

If no sufficient distress can be had, or there be not sufficient property whereupon the fine, etc., can be levied, the offender may be imprisoned.

(2) If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine or sum of money, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the admission of the offender or otherwise that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender to prison, there to be simply imprisoned, according to the discretion of the Magistrate, for any term not exceeding one calendar month when the amount of such fine or sum of money shall not exceed Rs. 50, and for any term not exceeding two calendar months when the amount shall not exceed Rs. 100, and for any term not exceeding six calendar months in any other case; such commitment to be determinable in each of the cases aforesaid on payment of the amount.

<sup>1</sup> The word "or" was substituted for the word "and" in clauses (ii) and (iii) by Madras Act III of 1897, s. 194.

<sup>2</sup> The word "compensation" was substituted for the word "damage" by Madras Act III of 1897, s. 195 (1).

<sup>3</sup> These words were inserted by Madras Act III of 1897, s. 195 (1).

(3) The Magistrate by whom any fine, <sup>1</sup> [compensation] or penalty is imposed by virtue of this Act shall award the whole of such fine, <sup>1</sup>[compensation] or penalty to the Municipal Council to be by them applied to the purposes of this Act. How fines and penalties are to be applied.

**287.** (*Prosecution.*) *Repealed by Madras Act III of 1897, section 3(1).*

**288.** The Governor in Council may, from time to time, by notification, authorize any person to exercise any one or more of the powers vested in him by this Act, save and except those mentioned in Chapter I, and may at any time in like manner withdraw such authority. Delegation of powers by the Governor in Council.

**289.** Every notification under this Act shall be published in the official Gazette of the district to which the said notification applies, both in English and a Vernacular language of the district. Notification to be published in District Gazette.

<sup>2</sup> **289-A.** Every by-law, order, notice or other document, directed to be published under this Act, shall, unless a different method be prescribed by this Act or by the Municipal Council, be written in, or translated into, the vernacular of the district and deposited in the office of the Municipal Council, and a copy shall be posted up in a conspicuous position at such office and in such other places as the Municipal Council may direct, And a public proclamation shall be made throughout such Municipality by beat of drum, notifying that such copy has been so posted up, and that the original is open to inspection in the office of the Municipal Council. Publication of bye-laws, orders, notices, etc.

### <sup>3</sup> SCHEDULE A (SECTION 47).

#### TAX ON ARTS, PROFESSIONS, TRADES AND CALLINGS.

##### *Class I.*

Yearly.

Every person holding any office or appointment, public or private, or employed in any capacity, whose pay, salary or pension amounts to Rs. 2,000 a month or upwards and every person falling under any of the following denominations whose income is estimated to amount to Rs. 2,000 a month or upwards :—	} Rupees 100
(i) Carrying on business as a Company;	
(ii) Abkari Renters, Wholesale and Retail Traders and Manufacturers of every kind, Contractors, Shipowners, Boat-owners, Auctioneers, and Commission Agents;	
(iii) Bankers, Money-lenders, Money-changers and Pawnbrokers;	
(iv) Editors and Proprietors of Newspapers;	

<sup>1</sup> The word "compensation" was inserted by Madras Act III of 1897, s. 195(2).

<sup>2</sup> S. 289-A was inserted by Madras Act III of 1897, s. 196.

<sup>3</sup> This schedule was substituted for the original Schedule A by Madras Act III of 1897, s. 197.

## Class I—contd.

Yearly.

(v) Dubashes, Under-writers, Brokers and Dealers in Securities, Shares or Bills of Exchange ;	} Rupees. 100
(vi) Practising Barristers, Advocates, High Court Vakils, Solicitors, Attorneys, Pleaders, and Law Agents ;	
(vii) Practising Medical Practitioners of all kinds, including Hakims and Vaidiyans ;	
(viii) Dentists and Veterinary Surgeons ;	
(ix) Architects and Civil Engineers ;	
(x) Owners and Farmers of Markets and Toll-farmers ;	
(xi) Keepers of Hotels, Lodging-Houses, Boarding-Houses or Billiard-Saloons ;	
(xii) Builders and Surveyors ;	
(xiii) Owners of Mills, Warehouses, Printing-Presses, Oil-Presses, Cotton-Presses and other Presses and Factories of all kinds ;	
(xiv) Professional Artists, Photographers, Actors, Owners or Managers of Circuses or Theatrical Companies ; Musicians and Dancers ;	
(xv) Dealers in animals or vehicles ; and Owners or keepers of livery stables or hackney carriages ;	
(xvi) Artizans.	

## Class II.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 1,500 a month or upwards . . . 75

## Class III.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 1,000 a month or upwards . . . 50

## Class IV.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 500 a month or upwards . . . 25

## Class V.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 300 a month or upwards . . . 12

## Class VI.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 200 a month or upwards . . . 8

## Class VII.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount, Rs. 100 a month or upwards . . . 4



*Class VIII.*

Every person described in Class I whose pay, salary or pension amounts, or Yearly  
whose income is estimated to amount, to Rs. 50 a month or upwards . Rupees 2

*Class IX.*

Every person described in Class I whose pay, salary or pension amounts, or  
whose income is estimated to amount, to Rs. 30 a month or upwards . „ 1

NOTE.—The above classification is subject to the following provisos, namely:—

Proviso 1.—No owner of a Cotton-press shall be placed in any class below Class IV.

Proviso 2.—No wholesale Trader, Ship-owner, Banker, Dubash, Barrister, Advocate, High Court Vakil, Solicitor, Attorney, Architect, Civil Engineer, Mill-owner or Factory owner shall be placed in any class below Class V.

Proviso 3.—No Abkari Renter (other than a mere liquor-shop keeper), Editor or Proprietor of a Newspaper, Under-writer, Broker or other Dealer in Securities, Shares or Bills of Exchange, and no First-grade Pleader, Medical Practitioner (other than a Hakim or Vaidyan), Dentist or Veterinary Surgeon shall be placed in any class below Class VI.

Proviso 4.—No Boat-owner, Auctioneer, Money-lender, Second-grade Pleader, Vakil, Law-Agent, Owner or Farmer of a Market, Toll-farmer, Keeper of a hotel, lodging-house, boarding-house or billard-saloon, and no builder, Surveyor or Owner of a Warehouse or Press (other than a Cotton-press or Oil-press) shall be placed in any class below Class VII.

<sup>1</sup> SCHEDULE B (SECTION 47).VEHICLES WITH SPRINGS, PALANQUINS, AND ANIMALS LIABLE TO TAXATION  
WITH THE RATES OF TAXATION.

	Half-yearly. Rs. A. P.
For every four-wheeled vehicle with springs <sup>2</sup> [constructed to be] drawn by two or more horses . . . . .	10 0 0 <sup>4</sup>
For every four-wheeled vehicle with springs <sup>2</sup> [constructed to be] drawn by a horse, bull or bullock, or by two or more horses under thirteen hands, bulls or bullocks . . . . .	5 0 0 <sup>3</sup>
For every two-wheeled vehicle with springs <sup>2</sup> [constructed to be] drawn by one or more horses, bulls or bullocks . . . . .	3 0 0
Every other vehicle with springs and every palanquin, <sup>4</sup> [bicycle or tricycle] . . . . .	3 0 0
For every elephant . . . . .	12 0 0
For every camel . . . . .	6 0 0
For every horse over thirteen hands . . . . .	5 0 0 <sup>5</sup>
For every horse of or under thirteen hands . . . . .	2 0 0 <sup>5</sup>
For every horse of or under eleven hands . . . . .	1 0 0 <sup>5</sup>

<sup>1</sup> In its application to Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended, Schedule B shall be read with the following addition (*See* Mad. Act II of 1907, s. 5):—

	Rs. A. P.
For every motor-car other than a motor-bicycle . . . . .	30 0 0
For every motor bicycle . . . . .	10 0 0

<sup>2</sup> The words “constructed to be” were inserted by Madras Act III of 1897, s. 198(1).

<sup>3</sup> These half-yearly rates were substituted for the original rates by Madras Act III of 1897, s. 198(3).

<sup>4</sup> The words “bicycle or tricycle” were inserted by Madras Act III of 1897, s. 198(3).

<sup>5</sup> Substituted for the original rates by Madras Act III of 1897, s. 198(3).

	Half-yearly.		
	Rs.	A.	P.
For every bullock or bull . . . . .	0	8	0
For every male buffalo . . . . .	0	8	0
For every ass . . . . .	0	4	0
For every dog . . . . .	0	8	0 <sup>1</sup>

<sup>2</sup> SCHEDULE C (SECTION 80).

## FORM OF APPLICATION FOR LICENSE FOR VEHICLES AND ANIMALS.

To the Chairman of the Municipal Council of

I hereby certify that I have in my possession the Animals and Vehicles set forth in the list given hereunder and no others liable to tax under Schedule B of Act of 188 for the half-year ending the day of 189

*(Description of Vehicles and Animals.)*

No.		Tax for the half-year.		
		Rs.	A.	P.
	Four-wheeled vehicle with springs <sup>1</sup> [constructed to be] drawn by two or more horses. . . . .	10	0	0 <sup>1</sup>
	Four-wheeled vehicle with springs <sup>2</sup> [constructed to be] drawn by horse, bull or bullock, or by two or more horses under thirteen hands, bulls or bullocks . . . . .	5	0	0
	Two-wheeled vehicle with springs <sup>3</sup> [constructed to be] drawn by one or more horses, bulls or bullocks . . . . .	3	0	0
	Other vehicle with springs or palanquin, <sup>4</sup> [bicycle or tricycle] . . . . .	3	0	0
	Elephant . . . . .	12	0	0
	Camel . . . . .	6	0	0
	Horse over thirteen hands . . . . .	5	0	0 <sup>1</sup>
	Horse of or under thirteen hands . . . . .	2	0	0 <sup>1</sup>
	Horse of or under eleven hands . . . . .	1	0	0 <sup>1</sup>
	Bullock or bull . . . . .	0	8	0
	Male buffalo . . . . .	0	8	0
	Ass . . . . .	0	4	0
	Dog . . . . .	0	8	0

Date

Signature.

Residence.

<sup>1</sup> Substituted for the original rates by Madras Act III of 1897, s. 198(3).

<sup>2</sup> In its application to Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended Schedule C shall be read with the following addition (*See* Mad. Act II of 1907, s. 5):—

	Rs.	A.	P.
Motor-car other than a motor-bicycle . . . . .	30	0	0
Motor-bicycle . . . . .	10	0	0

<sup>3</sup> Inserted by Madras Act III of 1897, s. 198(1).

<sup>4</sup> *See* fourth foot-note to Sch. B, *supra*.

<sup>1</sup> SCHEDULE D (SECTION 47).

## MAXIMUM RATES OF TOLLS PAYABLE ON ENTERING THE MUNICIPAL LIMITS.

	Rs.	A.	P.
On every four-wheeled vehicle with springs . . . . .	0	8	0
On every jatka, hackery or cart <sup>2</sup> * * * laden . . . . .	0	4	0
On every jatka, hackery or cart <sup>2</sup> * * * not laden . . . . .	0	2	0
On every other vehicle with springs and every palanquin, <sup>3</sup> [bicycle or trieyele] . . . . .	0	4	0
<sup>4</sup> On every buffalo, bull, bullock, cow, or ass laden or ridden and on every horse under thirteen hands . . . . .	0	1	0
On every horse not under thirteen hands <sup>5</sup> * * * . . . . .	0	2	0
* * * * *			
On every elephant . . . . .	1	0	0
On every camel . . . . .	0	4	0

EXPLANATION (1) "Laden."—An animal is not said to be laden when it is merely accounted for the purpose of being laden or ridden.

<sup>7</sup> EXPLANATION (2).—Tolls are leviable upon vehicles at the above rates irrespective of the means of traction employed and the payment of a toll in respect of any vehicle covers the animals engaged in drawing it.

<sup>6</sup> SCHEDULE E (SECTION 104).

## DISTRAINT WARRANT.

To

(Here insert the name of the officer charged with execution of the Warrant).

WHEREAS                      of                      has not paid or shown sufficient cause for the non-payment of the sum of                      rupees due for the taxes mentioned in the margin for the                      19                      , although the said sum has been duly demanded from the said                      and fifteen (or "three," as the case may be) days have elapsed since such demand was made. This is to command you to distrain the goods and chattels of the said

<sup>1</sup> In its application to Municipalities to which the Madras Hill Municipalities Act, 1907, extends or is extended, this Schedule shall be read with the following addition (*See* Mad. Act II of 1907, s. 5):—

	Rs.	A.	P.
On every motor-car other than a motor-bicycle . . . . .	0	8	0
On every motor-bicycle . . . . .	0	4	0

<sup>2</sup> Words repealed by Madras Act III of 1897, s. 199(1), are omitted.

<sup>3</sup> These words were inserted by Madras Act III of 1897, s. 199(2).

<sup>4</sup> This item was substituted for the original item by Madras Act III of 1897, s. 199(3).

<sup>5</sup> Words repealed by Madras Act III of 1897, s. 199(4), are omitted.

<sup>6</sup> Item seven repealed by Madras Act III of 1897, s. 199(5), is omitted.

<sup>7</sup> This Explanation was added by Madras Act III of 1897, s. 199(6).

<sup>8</sup> Schedules E and F were substituted for the original Schedules E and F by Madras Act III of 1897, s. 200.

(or as the case may be any goods and chattels found on the premises referred to) to the amount of the said sum of rupees, together with                      for warrant-fee and distraint-fee, making together a sum of                      , and such further sum as may be sufficient to defray the charges of taking, keeping and selling such distraint; and if, within seven days next after such distraint, the amounts due on account of the said taxes and fees shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distraint, to sell the said goods and chattels; and having paid and deducted out of the proceeds of the sale the amount due on account of the said taxes and fees rupees and the charges of taking, keeping, and selling such distraint, to return the surplus, if any, on demand, to the person whom you found in possession of the said goods and chattels. If sufficient distraint cannot be found of the goods and chattels of the said                      you are to certify the same to me together with this warrant.

(L.S.)

Date

(Signature or Stamp of the Chairman of the Municipal Council.)

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<sup>1</sup> SCHEDULE F (SECTION 105).

FORM OF INVENTORY AND NOTICE.

(*State particulars of goods seized*).

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of                      rupees due for the taxes mentioned in the margin for the                      19                      ; and that, unless you pay into the office of the Municipal Council of                      the amount due, together with the warrant-fee the distraint-fee and the cost of taking and keeping the goods and chattels, within seven days from the day of the date of this notice, the goods and chattels will be sold on the                      day of                      19                      , at the Municipal office or at such other place as the Chairman may direct; and that the goods and chattels may be sold at any previous date, if they are liable to speedy and natural decay.

(Signature of the officer executing the Warrant of Distress)

Date

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<sup>1</sup> See foot-note to Sch. E, *supra*.

SCHEDULE G (SECTION 108).

TABLE OF FEES PAYABLE ON DISTRAINTS UNDER THIS ACT.

Sums distrained for		Fees.		
		Rs.	A.	P.
Under 1 rupee		0	4	0
1 and under 5 rupees		0	8	0
5	10	1	0	0
10	15	1	8	0
15	20	2	0	0
20	25	2	8	0
25	30	3	0	0
30	35	3	8	0
35	40	4	0	0
40	45	4	8	0
45	50	5	0	0
50	60	6	0	0
60	80	7	8	0
80	100	9	0	0
100 and above 100		10	0	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

THE MADRAS LOCAL BOARDS ACT, 1884.

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- 157. Liability of members for loss, waste or misapplication.
- 158. Penalty on member or servant being interested in contracts made with board.
- 159. Delegation of powers of Collector.
- 160. Delegation of powers of Governor in Council.
- 161. Publication of notifications in the District Gazette.
- 162. Acts of local board, etc. not to be invalidated by informalities.
- 162A. Consequences of failure to obtain license, etc., or of breach of same.
- 162B. Failure to comply with notice.
- 162C. General penal clause.
- 162D. Damages and expenses how to be determined.
- Method of proceeding before a Magistrate.
- 163. Service of notices.
- 164. Entry into zenáná.
- 165. Illegal collection of taxes or tolls.
- 166. Offender may be detained in custody, or compelled to give security, if fine, etc., be not forthwith paid.
- 166A. If no sufficient distress can be had, the offender may be imprisoned.
- Prosecutions under this Act.
- 167. District Board's powers in the absence of taluk board.

## SCHEDULE A.—MAXIMUM RATES OF THE TAX ON HOUSES.

## SCHEDULE B.—MAXIMUM RATES OF TOLLS PAYABLE ON CARRIAGES, CARTS AND ANIMALS PASSING ALONG ROADS WITHIN THE DISTRICT.

## SCHEDULE C.—NOTICE OF DEMAND.

## SCHEDULE D.—DISTRRAINT WARRANT.

MADRAS ACT No. V OF 1884.<sup>1</sup>

## [THE MADRAS LOCAL BOARDS ACT, 1884.]

[ 29th April, 1884; 2nd July, 1884.]

## Preamble.

WHEREAS it is expedient to make better provision for the organization of local boards in the Presidency of Fort St. George; for the construction, repair

<sup>1</sup> For the Statement of Objects and Reasons, see Fort St. George Gazette, Supplement, dated 20th November, 1883, p. 33; for Report of the Select Committee, see *ibid*, Extraordinary, dated 8th March, 1884; for Proceedings in Council, see *ibid*, Supplement, dated 11th December, 1883, p. 38, and *ibid*, dated 29th April, 1884, p. 12.

It has been extended, under sections 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874), with modifications, to 122 villages in the Parlakimedi Mahals in the Scheduled Districts in Ganjam—see Gazette of India, 1894, Pt. I, p. 168.

and maintenance of roads and communications in local areas therein not included within the limits of any municipality; for the diffusion of education in such local areas; and for other objects of public utility calculated to promote the health, comfort and convenience of the inhabitants of such local areas; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. This Act may be called the Madras Local Boards Act, 1884.

Short title.

2. (1) It extends to the territories for the time being administered by the Governor in Council of Fort St. George situated beyond the limits of the City of Madras as defined under the City of Madras Municipal Act, 1884,<sup>1</sup> or other law in force for the time being, and not included in any municipality, as defined under the Madras District Municipalities Act, 1884,<sup>2</sup> or other law in force for the time being. 1\* \* \* \* \*

Mad. I of 1884.

Mad. IV of 1884.

Local extent

(2) It shall come into force in any district on such date as the Governor in Council may by notification direct.<sup>3</sup> Commencement of Act.

3. In this Act, unless there is something repugnant in the subject or context,— Interpretation clause.

(i) "building" includes walls, and also houses, huts, sheds roofed enclosures and constructions appurtenant thereto, whether used for the purpose of human habitation or otherwise: "Building."

(ii) "Company" means a company registered under the Indian Companies Act, 1882,<sup>4</sup> or under the Acts of Parliament known under the collective title of the Companies Acts, 1862 to 1893, or incorporated by an Act of Parliament or of the Governor-General in Council or by royal charter or letters patent: "Company."

(iii) "district" means any local area, which, for the purposes of the collection of land-revenue, shall have been placed, for the time being, under the charge of a Collector of a district, or which for the purposes of this Act the Governor in Council may by notification from time to time declare to be a district or to be attached to and to form part of a district: "District."

(iv) words importing the masculine gender shall be taken to include females: "Gender."

<sup>1</sup> The figures "1884" were substituted for the figures "1878," and the words "or in any scheduled district, as defined under the Scheduled District Act, 1874, or other law in force for the time being" were repealed by s. 3 of the Madras Local Boards Act, 1900 (Mad. Act VI of 1900), with effect from the 1st April, 1901, see *infra*.

<sup>2</sup> Printed, *supra*.

<sup>3</sup> For list of districts in which the Act has been brought into force, see Madras List of Local Rules and Orders, Edn. 1912, pp. 403. *et seq.*; also Gazette of India, 1901, Pt. I, p. 635; and Fort St. George Gazette, 1901, Pt. I, p. 1428.

<sup>4</sup> This section was substituted for the original section 3 by section 5 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900), with effect from 1st April, 1901.

<sup>5</sup> See now Act VII of 1913, Genl. Act., Vol. VII.

- "Guardian." (v) "guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognised usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any lawful authority :
- "Horse." (vi) "horse" includes pony and mule :
- "House." (vii) "house" includes any shop or warehouse.
- "Inoculation." (viii) "inoculation" means any operation performed with the object of producing the disease of small-pox by means of variolous matter :
- "Inhabitant." (ix) "inhabitant" means any person who has been ordinarily residing in any local area for a period of six months or upwards :
- "Landholder." (x) "landholder" includes all persons holding under a sanad-i-milkiat-istimrar, all other zamindars, poligars, shrotriedars, jagirdars and inamdars, and all persons farming the land-revenue under Government ; all holders of land in Malabar under whatever tenure : and all holders of land under raiyat-war-settlement, or in any way subject to the payment of land-revenue direct to Government, and all registered holders of land in proprietary right :
- "Latrine." (xi) "latrine" includes privy :
- "Local board." (xii) "local board" means and includes any district board or taluk board constituted under this Act :
- "Local fund." (xiii) "local fund" means and includes a district fund, a taluk fund and a union fund :
- "Magistrate." (xiv) "Magistrate" means a Magistrate appointed under the Code of Criminal Procedure. [1898].
- "Market." (xv) (a) "market" means any place which is a market at the passing of this Act or which may have been declared under section 117A to be a market :
- (b) "public market" means any market belonging to a local board or constructed, repaired or maintained out of the local fund :
- (c) "Private market" means any market, not being a public market.
- "Notice." (xvi) "notice" means a notice in writing, and "writing," with its grammatical variations and cognate expressions, shall include "printing," "lithography," "photography," with their grammatical variations and cognate expressions, and other modes of representing or reproducing words in a visible form :
- "Nuisance." (xvii) "nuisance" means any act, omission or thing causing or likely to cause any common injury, annoyance, offence, harm,

V of 1898.

<sup>1</sup> These figures were substituted for "1882" by the Repealing and Amending Act, 1901 (I of 1901)—see the Second Schedule, Part III.

danger or damage to the sense of sight, smell or hearing of, or which is or is likely to be dangerous or injurious to the health or property of, the public or the people in general who dwell or occupy property in the vicinity or persons who may have occasion to use any public right :

- (xviii) "owner" includes the person for the time being receiving or "Owner."  
entitled to receive the rent or profits of the property, or in charge of the animal or thing in connection with which the word is used, whether on his own account or as agent or trustee for another person :
- (xix) "palanquin" includes tonjons, manchils and chairs carried by "Palanquin."  
men by means of poles, but not slings or cots used for the conveyance of children or aged or sick people :
- (xx) "panchayat" means the body of persons constituted for a union "Panchá-  
yat." under this Act :
- (xxi) "parent" means the father of a legitimate child and the mother "Parent,"  
of an illegitimate child :
- (xxii) "person" includes any company or association or body of indivi- "Person."  
duals, whether incorporated or not :
- (xxiii) (a) "road" includes any road, street, square, court, alley or "Road."  
passage, whether a thoroughfare or not, over which the public has a right of way, together with the drains on either side and with the land, whether covered or not by any pavement, verandah or other erection, which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property be private property or property reserved by Government for other purposes ; and also includes the roadway over any public bridge or causeway :
- (b) "public road" means any road which is now vested in a local "Public  
board or which may hereafter be made at the cost of the road."  
local fund or which may hereafter be declared under section  
53 to be a public road :
- (xxiv) "salaried office" does not include the office of a village-head- "Salaried  
man, karnam or other village-officer mentioned in the Madras office."  
Village-cess Act, IV of 1893 :
- (xxv) "schedule" means a schedule to this Act. The schedule shall "Schedule."  
be read as part of this Act :
- (xxvi) "taluk" means any part of a district which may be declared to "Taluk."  
be a taluk in the manner hereinafter provided :
- (xxvii) "tenant" includes all persons who whether personally or by an "Tenant."  
agent occupy land under a landholder or an intermediate landholder, and whether or not they pay rent to such landholder or intermediate landholder, as the case may be :

- “Union.” (xxviii) “union” means any revenue village or villages or any portion or portions thereof which may be declared to be a union in the manner hereinafter provided :
- “Unprotected child.” (xxix) “unprotected child” means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation or by having been successfully vaccinated, or who has not been certified in the manner hereinafter provided to be insusceptible of vaccination :
- “Vaccinator.” (xxx) (a) “vaccinator” means a public or private vaccinator :
- “Public vaccinator.” (b) “public vaccinator” means any vaccinator employed under this Act by any local board, and includes a deputy inspector of vaccination :
- “Private vaccinator.” (c) “private vaccinator” means any person duly licensed to perform the operation of vaccination :
- “Number.” (xxxi) words in the singular shall include the plural, and *vice versa*.

Con-  
sequences  
of Act com-  
ing into  
force.

4. On this Act coming into force, as provided in section 2, in any district, the following consequences shall ensue :—

- <sup>1</sup>(i) the Madras Local Funds Act, 1871, shall cease to apply to such district ; Mad. Act IV  
of 1871.
- (ii) the local fund circle or circles and the local fund board or boards established under the said Act in such district shall cease to exist : Provided that the members of the local fund board or boards of the circle or circles in such district, appointed under the said Act and holding office at the time this Act comes into force, shall be deemed to have been appointed members of the district board under this Act, but shall go out of office on the expiry of the term for which they shall have been originally appointed ;
- (iii) all property vested in the said local fund board or boards shall vest in the district board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, such property ;
- (iv) every contract entered into by the said local fund board or boards may be enforced by and against the district board in like manner as it might have been enforced by and against the local fund board or boards if this Act had not been passed :
- (v) the district board shall be substituted for the said local fund board or boards in all suits or other proceedings pending by or against the said local fund board or boards at the time this Act comes into force.

<sup>1</sup> This clause now virtually operates as a repeal of Mad. Act IV of 1871 which remained in force in districts so long as Mad. Act V of 1884 was not applied to them. As to districts in which Mad. Act V of 1884 has been brought into force, see Madras List of Local Rules and Orders, Vol. II.

5. The Governor in Council may, by notification,<sup>1</sup> from time to time declare any part of a district to be a taluk for the purposes of this Act; and the provisions of this Act regarding taluk boards shall come into force in any taluk on such date as may be specified in the said notification: Provided that the Governor in Council may <sup>2</sup>[by an order in writing published together with a statement of his reasons for making the same] in like manner at any time modify or cancel such declaration, dissolve any taluk board and pass such orders as to the disposal of the property theretofore vested in such board as he may deem fit. <sup>3</sup>[But no order dissolving a taluk board shall be passed without previously intimating to the district board to which the taluk board is subordinate and to the taluk board the grounds upon which the proposal is based and considering the explanation and objections, if any, of the district board and the taluk board.]

Establishment of taluk board.

Abolition of taluk board.

<sup>3</sup> 6. (1) The Governor in Council may, by notification, from time to time, declare [<sup>4</sup> any village or villages or any portion or portions thereof] to be an union for the purposes of this Act, and may [<sup>5</sup> by an order in writing published together with a statement of his reasons for making the same] at any time in like manner modify or cancel such declaration, and dissolve the panchayat of the union concerned.

Unions.

(2) The provisions of this Act regarding panchayats shall come into force in any union on such date as may be specified in the notification declaring it to be an union.

7. Where, in any Act, Regulation or notification passed or issued prior to the day on which this Act comes into force, reference is made to the Madras Local Funds Act, 1871,<sup>6</sup> such reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part thereof.

Reference in prior Acts, etc.

Mad. IV of 1871.

## CHAPTER II.

### LOCAL BOARDS AND THEIR CONSTITUTION.

#### I.—District Boards.

8. There shall be constituted for each district a district board, having authority over such district, and consisting of a president and of not less

Establishment of a district board.

<sup>1</sup> For list of notifications declaring the formation of taluks, see Madras List of Local Rules and Orders, Vol. II.

<sup>2</sup> These words were inserted in the section by s. 6 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900), with effect from the 1st April 1901.

<sup>3</sup> For notifications under the section, see Madras List of Local Rules and Orders, Vol. II.

<sup>4</sup> These words were substituted for the words "any village or group of villages" by the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900), s. 7, with effect from 1st April, 1901.

<sup>5</sup> These words were inserted by s. 7 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900), with effect from 1st April, 1901.

<sup>6</sup> As to the repeal of this Act, see footnote to s. 4.

than twenty-four persons, <sup>1</sup>[provided that the Nilgiri district board shall consist of a president and not less than twelve persons], who shall be called the members of the district board.

The Collector of the district to be

*ex-officio* member and president. Governor in Council may authorize the members to elect president, and may withdraw such authority.

9. (1) The Collector of the district shall *ex-officio* be <sup>2</sup>[member and] president of the district board.

(2) But it shall be competent to the Governor in Council <sup>2</sup>[ to appoint one of the members of any district board to be the president of such board or ] by notification, from time to time, to authorize the members of any district board to appoint their president by election from among their own number, subject to the approval of the Governor in Council and in accordance with such rules and conditions as may from time to time be prescribed by him :

Provided that the Governor in Council may at any time, by notification, withdraw such authority. <sup>2</sup> [ But no such notification shall be issued without previously intimating to the district board the grounds upon which the proposal is based and considering the explanation and objections, if any, of the district board . ]

Revenue-officers in charge of divisions to be *ex-officio* members.

10. Every Revenue-officer in charge of a division of the district shall *ex-officio* be a member of the district board.

Appointment of other members.

11. The other members of the district board may be—

- (a) either wholly appointed by the Governor in Council, or
- (b) partly so appointed and partly appointed by election by the members of the taluk boards in the district from among their own number, or, in any part of the district over which there is no taluk board having authority, by the pancháyats, and by the tax-payers and inhabitants of such part of the district, subject to such rules and conditions as may from time to time be prescribed by the Governor in Council.

Proportion of officials and non-officials.

12. Any person holding a salaried office under Government in the district may be appointed <sup>3</sup> [ by name or in virtue of his office ] to be a member of the district board :

Provided that the number of such persons appointed by the Governor in Council to be members of any district board, together with the *ex-officio* members, shall not exceed one-fourth of the whole number of members of such board.

<sup>1</sup> This proviso was inserted by s. 8 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900), with effect from 1st April, 1901.

<sup>2</sup> These words were inserted by s. 9 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900), with effect from 1st April, 1901.

<sup>3</sup> These words were inserted by section 10 of Mad. Act VI of 1900, with effect from 1st April, 1901.



**13.** In any district where the members of the district board are partly appointed by election, the number of persons so appointed shall, unless the Governor in Council otherwise directs, be three-fourths of the whole number of the members of such district board.

2.—*Taluk Boards.*

**14.** There shall be constituted for each taluk a taluk board, having authority over such taluk and consisting of a president and of not less than twelve persons, who shall be called the members of the taluk board.

**15.** (1) The Revenue-officer in charge of the division of the district wherein any taluk is situated shall *ex-officio* be <sup>1</sup> [ member and ] president of the taluk board of such taluk.

<sup>1</sup> (2) In the event of a taluk constituted under section 5 containing areas belonging to more than one revenue-division, the Governor in Council shall declare which of the revenue divisional officers concerned shall *ex-officio* be member and president of the taluk board, and the other or others shall be members.

(3) But it shall be competent to the Governor in Council <sup>1</sup> [ to appoint one of the members of any taluk board to be president of such board or, by notification, from time to time, to authorize, the members of any taluk board to appoint their president by election from among their own number, subject to the approval of the Governor in Council and in accordance with such rules and conditions as may from time to time be prescribed by him :

Provided that the Governor in Council may, at any time, by notification, withdraw such authority. <sup>1</sup> [ But no such notification shall be issued without previously intimating to the taluk board the grounds upon which the proposal is based and considering the explanation and objections, if any, of the taluk board.]

<sup>1</sup> (4) Whenever the president of a taluk board is appointed or elected as provided in sub-section (3), the Revenue-officer in charge of every division or portion of a division included in the taluk constituted under section 5 shall *ex-officio* be a member of the taluk board of such taluk, and when one of such revenue-officers is elected as president, the others shall *ex-officio* be members of the taluk board.

<sup>1</sup> These words were inserted, sub-section (2) renumbered (3), and the present sub-sections (3) and (4) added by s. 11 of the Madras Local Boards Act Amendment Act 1900 (Mad. Act VI of 1900), with effect from the 1st April, 1901.

Proportion to be elected.

Establishment of taluk boards.

The Revenue-officer in charge of the division of the district to be *ex-officio* member and president.

Governor in Council to declare who is to be president of a taluk board when the taluk contains areas belonging to more than one revenue-division.

But the Governor in Council may appoint, or authorize the election of president,

and may withdraw such authority.

When the president is appointed or elected the Revenue-officer of every division or portion of a division to be *ex-officio* member.

Appoint-  
ment of  
members.

**16.** The <sup>1</sup> [ other ] members of the taluk board may be—

- (a) either wholly appointed by the Governor in Council, or
- (b) partly so appointed and partly appointed by election by the members of the pancháyats in the taluk from among their own number or by the tax-payers and inhabitants of the taluk,

subject to such rules and conditions as may from time to time be prescribed by the Governor in Council.

Proportion  
of officials  
and non-  
officials.

**17.** Any person holding a salaried office under Government in the taluk may be appointed <sup>2</sup> [ by name or in virtue of his office ] to be a member of the taluk board : Provided that the number of such persons appointed by the Governor in Council to be members of any taluk board shall not exceed one-third of the whole number of members of such board.

Proportion  
to be  
elected.

**18.** In any taluk where the members of the taluk board are partly appointed by election the number of persons so appointed shall, unless the Governor in Council otherwise directs, be two-thirds of the whole number of the members of such taluk board.

### 3.—General sections in regard to the Constitution of District and Taluk Boards.

The  
Governor  
in Council  
shall declare  
the number  
of members,  
etc.

**19.** Upon this Act coming into force in any district or taluk the Governor in Council shall, by notification, declare—

- <sup>3</sup> (i) what shall be the maximum number of persons to be appointed, for the time being, members of any district or taluk board,
- <sup>3</sup> (ii) what shall be the number or proportion, if any, of such members to be appointed by election :

Provided that the Governor in Council may, by notification, from time to time, cancel or modify such declaration. <sup>4</sup> [ But no such notification shall be issued without previously intimating to the district or taluk board the grounds upon which the proposal is based and considering the explanation and objections, if any, of the district or taluk board, as the case may be, and such notification shall not come into force until one month after the same shall have been published in the Fort St. George Gazette.]

Appointment  
of vice-pre-  
sident by  
Governor  
in Council.  
Election of  
vice-  
president.

**20.** The Governor in Council may appoint one of the members of <sup>5</sup> [ any ] local board to be the vice-president of such board, or he may, by notification, <sup>6</sup> from time to time, authorize the members of any local board to appoint their vice-president by election from among their own number, subject to the approval of the Governor in Council and in accordance with such rules and conditions as may from time to time be prescribed by him :

<sup>1</sup> This word was inserted by s. 12 of Mad. Act VI of 1900, printed, *infra*.

<sup>2</sup> These words were inserted by s. 13 of Mad. Act VI of 1900.

<sup>3</sup> For notifications issued under these clauses, see Madras List of Local Rules and Orders, Vol. II.

<sup>4</sup> These words were added by s. 14 (a) of Madras Act VI of 1900, with effect from 1st April, 1901.

<sup>5</sup> This word was substituted for the word "each" by s. 14 (b) of Mad. Act VI of 1900.

<sup>6</sup> For notifications under this section, see Madras List of Local Rules and Orders, Vol. II.

Provided that the Governor in Council may, by notification, at any time, withdraw such authority.

**21.** (1) In any local board where there is a president duly appointed, <sup>Consequence of election of president,</sup> [or elected], the Collector of the district or the revenue-officer in charge of the division of the district, as the case may be, wherein such local board is situated, shall at once vacate the office of president.

(2) In any local board where there is a vice-president duly appointed by <sup>and of vice-president.</sup> election the vice-president holding office at the time of such appointment shall at once vacate the office of vice-president.

**22.** (1) <sup>Term of office of members.</sup> [ Subject to the provisions of section 24, every person appointed or elected as aforesaid to be a member of a local board shall continue in office for three years from the date of the Fort St. George Gazette wherein his appointment was notified, and he shall then cease to be a member of such board : ]

Provided that any member of a taluk board or of a panchayât <sup>2</sup>[elected] to be a member of a district board or of a taluk board shall vacate his office of member of such district board or taluk board on his ceasing to be a member of the taluk board or panchayât.

(2) <sup>President or vice-president vacates office on ceasing to be member of board, etc.</sup> [ Any member of a local board appointed or elected to be president or vice-president shall be deemed to have vacated such office on the expiry of the term for which he was originally appointed or elected member or on his otherwise ceasing to be a member or upon the withdrawal of the authority given under sub-section (2) of section 9 or sub-section (3) of section 15 or section 20.]

(3) But any outgoing president, vice-president or member of any local board shall, if otherwise qualified, be eligible for re-appointment. <sup>Outgoing member eligible for re-appointment.</sup>

**23.** (1) Any person appointed to be president, vice-president or a member of a local board may tender his resignation to the Governor in Council, and on the acceptance of such resignation such person shall be deemed to have vacated his office. <sup>Resignation of office.</sup>

(2) <sup>3</sup>[ Any person holding a salaried office under Government who is a <sup>Member who is a Government servant</sup> member of a local board shall, on being permanently transferred from the local area over which such board has authority or on quitting such local area <sup>vacates office on transfer, etc.</sup> with the intention of remaining absent therefrom for more than three months, or on his resignation, suspension, removal or retirement from his office under Government, be deemed to have vacated his office of member of such board.]

<sup>1</sup> These words were substituted for the words "by election" by s. 15 of Mad. Act VI of 1900. Printed, *infra*.

<sup>2</sup> These words were substituted for the first clause of sub-section (1), the word "elected" for the word "appointed" in the proviso to the sub-section, and sub-section (2) for the original sub-section, by section 16 (a), (b) and (c), respectively, of Mad. Act VI of 1900.

<sup>3</sup> This sub-section was substituted for the original sub-section by s. 17 of Mad. Act VI of 1900, with effect from 1st April, 1901.

Removal of  
members of  
local board.

**24. (1)** The Governor in Council may, <sup>1</sup>[ by notification, remove any president, vice-president or member of a local board other than an *ex-officio* president or member ]—

- (i) if he <sup>2</sup>[ is absent for more than three months from the local area over which such board has authority or ] refuses to act or becomes incapable of acting or is declared insolvent or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Governor in Council, a defect of character which unfits him to be president, vice-president or member of a local board ;
- (ii) if he, without excuse sufficient, in the opinion of the Governor in Council, neglects for more than three consecutive months to be present at the meetings of the local board ;
- (iii) if his continuance in office is, in the opinion of the Governor in Council dangerous to the public peace or order <sup>2</sup>[ or likely to bring the administration of the local board into contempt ;]
- <sup>3</sup> (iv) in the case of a president, if he, without an excuse sufficient in the opinion of the Governor in Council, omits or refuses to carry out any resolution of the Board.

<sup>3</sup> (2) When the Governor in Council proposes to take action under clause (iii) of sub-section (1), he shall not pass orders without giving an opportunity of explanation to the president, vice-president or member concerned.

Re-election.

(3) The Governor in Council may prescribe a period during which any person so removed shall not be eligible for re-appointment or re-election.

Filling of  
casual  
vacancies.

**25. (1)** When the office of president, vice-president or member of any local board becomes vacant, a new president, vice-president or member shall, unless the Governor in Council otherwise directs <sup>4</sup>[ in the exercise of the powers vested in him under this Act], be appointed in the same manner as his predecessor was appointed.

Vacancy in  
the office of  
president.

(2) In any local board where the office of president becomes vacant, the Collector of the district in the case of a district board, and in the case of a taluk board the revenue-officer in charge of the division of the district wherein the office of such board is situated, shall assume the style and functions of the office of president.

President,  
vice-presi-  
dent or

<sup>5</sup> **26.** No member of a local board or panchayát, other than the president, vice-president or chairman, shall receive any salary or other remuneration from

<sup>1</sup> These words were substituted for the words " at any time remove any president, vice-president or member of a local board " by Mad. Act VI of 1900, s. 18, with effect from 1st April, 1901.

<sup>2</sup> These words were inserted in cls. (i) and (iii), respectively, by cls. (b) and (c), respectively of s. 18 of Mad. Act VI of 1900, with effect from 1st April, 1901.

<sup>3</sup> This clause was added, sub-s. (2) renumbered (3), and the present sub-s. (2) was added by cls. (d) and (e), respectively, of Mad. Act VI of 1900, with effect from 1st April, 1901.

<sup>4</sup> These words were inserted by s. 19 of Mad. Act VI of 1900, with effect from 1st April, 1901.

<sup>5</sup> This section was substituted for the original section 26 by s. 20 of Mad. Act VI of 1900, with effect from 1st April, 1901.

the funds at the disposal of or under the control of such board or panchayat, chairman and no president, vice-president or chairman shall receive any such salary or remuneration unless the payment thereof shall have been sanctioned by the local board or panchayat with the approval of the Governor in Council.

27. Every local board shall be a body corporate by the name of the local board of the local area for which it shall have been established and over which it has authority, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and subject to such rules as may from time to time be prescribed by the Governor in Council, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

<sup>1</sup> 27A. The election and appointment, otherwise than *ex officio*, of every president, vice-president and member of a local board shall be notified in the Fort St. George Gazette.

#### 4.—Mode of transacting Business.

28. Every local board shall provide an office, and shall meet for the transaction of business upon such days and at such times as <sup>2</sup> [ it ] may arrange and also at other times as often as a meeting shall be called by the president or, in his absence, by the vice-president :

Provided that every taluk board shall meet at least once in every month.

29. The president or, in his absence, the vice-president shall, at any time, on the requisition in writing of not less than one-third of the <sup>3</sup> [ members then on any local board ], call a meeting of such board :

Provided that no such meeting shall be held unless a notice of the meeting specifying the time and place at which and the purpose for which it is to be held has at least six days previous to the day of such meeting been addressed and sent by the president or vice-president to each of the members.

<sup>4</sup> 29A. All meetings of a local board shall be open to the public :

Provided that the presiding member may, in any particular case, direct that the public generally or any particular person shall withdraw.

30. At every meeting of a local board the president, or in his absence, the vice-president shall preside. In the absence from any meeting of the president and vice-president, the members of the local board present at the meeting shall choose some one of their number to preside thereat.

<sup>1</sup> Section 27A was inserted by s. 21 of Mad. Act VI of 1900, with effect from 1st April, 1901.

<sup>2</sup> The word "it" was substituted for the word "they" by s. 22 of Mad. Act VI of 1900.

<sup>3</sup> These words were substituted for the words "members of any local board" by s. 23 of Mad. Act VI of 1900.

<sup>4</sup> Section 29A was inserted by s. 24 of Mad. Act VI of 1900.

Quorum.

**31.** (1) No business shall be transacted at a meeting unless at least one-fourth of the whole number of members <sup>1</sup>[ then on the board, not being less than three, ] be present.

<sup>1</sup>[ If at the time appointed for a meeting under this sub-section or within half an hour thereafter, a quorum is not present, the president, vice-president or presiding member may adjourn the meeting till some future day.]

Decision by majority.

(2) All questions which may come before a local board at any meeting shall be decided by a majority ; and in every case of equality of votes the president or the presiding member shall have a second or casting vote.

Casting vote.

Interested member not to vote.

<sup>1</sup>[(3) No member of a local board shall vote on any question coming before the board for consideration in which (otherwise than in its general application to all persons and properties within the local area) he has any pecuniary interest.]

Modification or cancellation of resolutions.

(4) No resolution of any local board shall be modified or cancelled within three months by such board, except at a meeting specially convened in that behalf and by a resolution of such local board supported by not less than one-half of the whole number of the members <sup>1</sup>[ then on such board].

Minutes of proceedings.

**32.** (1) Minutes of the resolutions of <sup>2</sup>[ a ] local board passed at each meeting shall be drawn up and entered in a book to be kept for that purpose, and shall be signed by the president or the member who presided at such meeting, and shall, at all reasonable times and without charge, be open at the office of the local board to the inspection of any person who pays a tax under this Act in respect of any property situated within the local area of such board.

Copies of minutes to be sent to Collector or Divisional Officer for publication.

(2) A copy of the minutes of the resolutions of each meeting shall, within three days from the date thereof, be transmitted to the Collector of the district in the case of a district board, and in the case of a taluk board to the revenue-officer in charge of the division of the district wherein the office of such taluk board is situated, for publication in the District Gazette in English and a Vernacular language of the district at the cost of such local board :

<sup>3</sup>Provided that the president shall immediately submit to the said Collector or the revenue-officer, as the case may be, any minute of dissent that may be forwarded to him within forty-eight hours of the meeting by any member.

Certified copies of proceedings and records.

<sup>3</sup>(3) The president, and in his absence the vice-president, shall have the custody of the proceedings and records of the local board, and may grant copies of any such proceedings and records on payment of such fees as the

<sup>1</sup> These words were inserted, the last clause added to sub-s. (1), sub-s. (3) renumbered (1) the present sub-s. (3) added, and the words " then on such board " substituted for the words " of such board," by s. 31 (a), (b) and (c), respectively, of Mad. Act VI of 1900, all with effect from 1st April, 1901.

<sup>2</sup> The word " a " was substituted for the word " the " by s. 26 (a) of Mad. Act VI of 1900.

<sup>3</sup> This proviso was added to sub-s. (2) and sub-s. (3) added to the section, by s. 26 of the Madras Local Boards Act, 1900 (Mad. Act VI of 1900), with effect from 1st April, 1901.

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local board may, by general or special order, prescribe. Copies granted under this sub-section shall be certified by the president or the vice-president as provided in section 76 of the Indian Evidence Act, 1872,<sup>1</sup> and copies so certified may be used to prove the records of the local board in the same manner as they may, under sub-section (5) of section 78 of the said Act, be used to prove the proceedings of that body.

**33.** (1) The resolutions of <sup>2</sup>[ a ] local board shall be carried into effect by the president, in whom the entire executive power of the board shall be vested; and who shall be directly responsible for the due fulfilment of the purposes of this Act. Executive power vested in the president.

(2) It shall not be lawful for the president to exercise any power which by this Act it is expressly declared shall be exercised by the local board \* \* \* .<sup>2</sup> Exception.

<sup>2</sup>[ (3) The president may from time to time authorize the vice-president, by an order in writing, to exercise any of the powers conferred or to perform any of the duties imposed on the president by this Act, and may at any time in like manner modify or cancel such order : Delegation of powers by president to vice-president.

Provided that the delegation of powers or duties under this sub-section shall not relieve the president of any responsibility imposed upon him by by this Act.]

<sup>3</sup>**33A.** Notwithstanding anything contained in sub-section (2) of section 33, it shall be lawful for the president in cases of emergency to direct the execution of any work or the doing of any act which the local board is empowered to execute or do and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and to direct that the expense of executing such work or doing such act, incurred as the emergency may require, shall be paid from the local fund : President's powers in emergencies.

Provided that every direction given under this section shall be reported at the next following meeting of the local board.

**34.** (1) Every local board \* \* \* may, from time to time, make rule, consistent with this Act, and with any rules framed by the Governor in Council in regard to the following matters :-- Rules as to business.

- (i) the time and place of <sup>4</sup>[ its ] meetings ;
- (ii) the manner in which notice thereof shall be given ;
- (iii) the conduct of proceeding at meetings ;

<sup>1</sup> General Acts Vol. II.

<sup>2</sup> The word " a " was substituted for the word " the," the words " at a meeting " in sub-s. (2) were omitted, and sub-s. (3) substituted for the original sub-section, by s. 27 of Mad. Act VI of 1900.

<sup>3</sup> Section 33A was inserted by s. 28 of the Madras Local Boards Act, 1900 (Mad. Act VI of 1900), with effect from 1st April, 1901.

<sup>4</sup> The words " at a meeting " were omitted, the word " its " in cl. (i) substituted for the word " their," cl. (vii) renumbered (viii), and the present cl. (vii) and sub-s. (2) inserted by s. 29 (a) and (b), respectively, of Mad. Act VI of 1900. *Infra*.

- (iv) the division of duties among the members of the board ;
- (v) the appointment and procedure of committees consisting wholly of a certain number of members of the board, or partly of such members and partly of other inhabitants of the local area for the superintendence and management of educational institutions, hospitals, dispensaries, choultries or other institutions maintained by the board ;
- (vi) the persons by whom receipts may be granted for money paid to the board ;
- <sup>1</sup>(vii) the inspection by members of the board of institutions under the control of such board and the inspection of accounts, books, registers and returns, reports, statements and other documents appertaining thereto, belonging to such institutions ; and
- <sup>1</sup>(viii) all other similar matters.

<sup>1</sup>(2) No rule made under this section shall take effect until it has been published in the manner prescribed by the Governor in Council.

Execution of resolutions if president is negligent.

**35.** (1) If at any time it appears to the Collector of the district that the president of a local board <sup>2</sup> [ or chairman of a pancháyát ] has made default in carrying out any resolution of such local board <sup>2</sup> [ or pancháyát ], the Collector, <sup>2</sup> [ after obtaining and considering the explanation of the president or chairman ], may by notice in writing require such president <sup>2</sup> [ or chairman ] to carry out such resolution within a reasonable time to be specified in such notice, and if such president <sup>2</sup> [ or chairman ] omits to comply with such notice, the Collector may assume the execution of such resolution and pass all necessary orders accordingly.

Report to local board and Government.

(2) Any Collector taking action under this section shall in a memorandum record his reasons for such action, and shall forthwith forward such memorandum to the local board <sup>3</sup> [ or pancháyát ] for information, and shall also forthwith forward a copy thereof to the Governor in Council, who may pass such orders thereon as he may deem fit.

Control of Collector over local boards.

**36.** (1) When the Collector of the district is not the president of a local board, he may--

- (a) enter on and inspect, or cause to be entered on and inspected, any immoveable property or any work in progress under the control of such board ;
- (b) call for and inspect any document in the possession or under the control of such board ;

<sup>1</sup> See footnote to this section, *supra*.

<sup>2</sup> These words were inserted by s. 30, cls. (a) and (b) of Mad. Act VI of 1900.

<sup>3</sup> These words were inserted by s. 30 (c) of Mad. Act VI of 1900, with effect from 1st April, 1901.



- (c) require such board to furnish such statements, accounts, reports and copies of documents relating to <sup>1</sup> [ its ] proceedings or duties as he may think fit ; and
- (d) record in writing, for the consideration of such board, any observations he may think proper in regard to <sup>1</sup> [ its ] proceedings or duties.

<sup>1</sup> [(2) The Collector also may by a special order in writing in each case direct the revenue-officer in charge of the division to exercise any of the powers referred to in clauses (a), (b) and (c) of sub-section (1).]

Delegation of powers by a Collector to the revenue-officer of the division.

(3) The Governor in Council may, by notification, from time to time, authorize any public officer to exercise any of the powers of a Collector under this section, and may, at any time in like manner, modify or withdraw such authority.

**37. (1)** The Governor in Council or the Collector of the district may, by order in writing, suspend the execution of any resolution <sup>2</sup> [ of any local board or of any order issued by any local board or president ], or cancel such resolution or order, <sup>3</sup> [ or suspend or cancel any license granted by any local board or president ], and may prohibit the doing of any act which is about to be done, or is being done, in pursuance of, or under colour of, this Act, if, in his opinion, <sup>3</sup> [ such resolution has not been legally carried, or ] such resolution, order or act <sup>3</sup> [ or the issue of such license ] is in excess of the powers conferred by law, or the execution of such resolution or order or the doing of such act <sup>3</sup> [ or the continuance in force of such license ] likely to cause obstruction, injury or annoyance to any persons lawfully employed or danger to human life, health or safety, or is likely to lead to a riot or an affray.

Power of Government and Collector to suspend action under this Act.

(2) When the Collector makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it to the local board concerned and to the Governor in Council.

Submission of order to Government.

(3) The Governor in Council may <sup>3</sup> [ thereupon ] rescind the order, or <sup>3</sup> [ after giving the local board a reasonable opportunity of explanation ] direct that it continue in force with or without modification, permanently or for such period, as he thinks fit.

**38. (1)** In cases of emergency the Collector of the district may provide for the execution of any work, or the doing of any act, which a local board <sup>4</sup> [ or the president ] is empowered to execute or do, and the immediate execution or doing of which is in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be paid by the local board.

Extraordinary powers of Collector in case of emergency.

<sup>1</sup> The word "its" was substituted for the word "their," sub-s. (2) renumbered (3), and the present sub-s. (2) inserted by s. 31 of Mad. Act. VI of 1900.

<sup>2</sup> These words were substituted for the words "or order of a local board" by s. 32 (a) of Mad. Act VI of 1900.

<sup>3</sup> These words were inserted by s. 32 (a) and (b) of Mad. Act VI of 1900.

<sup>4</sup> These words were inserted by Mad. Act VI of 1900, s. 33 (a).

Recovery of expenses.

(2) If the expense is not so paid, such Collector may make an order directing the person having the custody of the local fund to pay the same in priority to any \* \*<sup>1</sup> other charges against such fund <sup>1</sup>[ except charges for the service of authorized loans ]. Such person shall, so far as the funds to the credit of the local board admit, be bound to comply with such order.

Report to be made to Governor in Council.

<sup>1</sup>(3) [ Every case in which the powers conferred by this section are exercised shall be forthwith reported to the Governor in Council by the Collector with the reasons in full for the exercise of such powers, and a copy of the report shall, at the same time, be sent to the local board for information.]

Powers of Divisional Officer.

**39.** When the revenue-officer in charge of the division of the district in which there is a taluk board is not the president of such board, he may, subject to the control of the Collector of the district, exercise in respect of such board any of the powers conferred on the Collector of the district by sections 35 to 38 ; and shall furnish the report prescribed in sections 35, 37 and 38 to the Governor in Council through the Collector of the district.

Powers of Governor in Council in cases of default of local board.  
Appointment of some person to perform duty.  
Recovery of expense.

**40.** (1) If at any time it appears to the Governor in Council that <sup>2</sup>[ a local board or a president ] has made default in performing any duty imposed <sup>2</sup>\* \* by or under this or any other Act, the Governor in Council may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the Governor in Council may appoint some person to perform it, and may direct that the expense of performing it shall be paid within such time as he may fix to such person by the local board.

(3) If the expense is not so paid, the Collector of the district, with the previous sanction of the Governor in Council, may make an order directing the person <sup>3</sup>\* \* having the custody of the local fund to pay the same, in priority to any <sup>3</sup>\* \* other charges against such fund, <sup>3</sup>[ except charges for the service of authorized loans.] Such person shall, so far as the funds to the credit of the local board admit, be bound to comply with such order.

#### 5.—*Servants of District and Taluk Boards.*

The local board to fix the number and salaries of their servants.

**41.** Every local board shall at <sup>4</sup>[its] first meeting, and may from time to time thereafter <sup>4</sup>\* \* fix the number and salaries of all such permanent servants as <sup>4</sup>[ it ] may think necessary and proper to assist in carrying out the purposes of this Act, and shall submit a statement of <sup>4</sup>[ its ] proposals for the sanction of the Governor in Council in such form as he may, from time to

<sup>1</sup> The words " or all " were repealed, the words in square brackets inserted, and the present sub-s. (3) substituted for the original, by s. 33 (b) and (c) of Mad. Act VI of 1900, with effect from 1st April, 1901.

<sup>2</sup> These words were substituted for the words " any local board " and the words " on it " repealed by s. 34 (a) of Mad. Act VI of 1900.

<sup>3</sup> The words " in " and " or all " were repealed, and the words in brackets added, by s. 34 (b) of Mad. Act VI of 1900.

<sup>4</sup> The word " its " was substituted for the word " their," the words " at a meeting " repealed, and the word " it " substituted for the word " they," by s. 35 of Mad. Act VI of 1900. Printed *infra*.

time, prescribe, and the Governor in Council shall pass such orders thereon as he may deem fit :

Mad. Act IV of 1871. Provided that such servants holding office under the Madras Local Funds Act, 1871,<sup>1</sup> at the time this Act comes into force shall be deemed to have been appointed under this Act.

42. (1) The Governor in Council may, on the application of any local board, place at <sup>2</sup> [ its ] disposal the services of any Government servant to be employed for the purposes of this Act. The local board shall pay to any Government servant so employed the salary he may be entitled to receive under the rules of the branch of the Government service to which he belongs, and shall also pay to the Governor in Council such contribution towards the pension of such servant as may be payable under the rules in that behalf in force for the time being. Government servants employed by local board.

(2) If such servant, while employed under the local board, or if any other servant of the local board, does any work for Government <sup>2</sup> [ or for any public or private body ], the Governor in Council <sup>2</sup> [ or the public or private body concerned, as the case may be, ] shall contribute to the local board so much of the salary of such servant as the Governor in Council may consider to be an equivalent for such work. Contribution towards pay of such servants.

(3) No Government servant employed by <sup>2</sup> [ a ] local board shall be dismissed or removed from such employment without the consent of the Governor in Council, or until three months' notice in writing to that effect shall have been given to the Governor in Council. Dismissal of such servants.

(4) No Government servant employed under <sup>2</sup> [ a ] local board shall, except in cases of emergency, be withdrawn from the service of the local board without <sup>2</sup> [ its ] consent, unless and until the Governor in Council shall have given three months' notice in writing to that effect to the local board <sup>2</sup> [ or unless some other Government servant has been deputed to replace the one withdrawn ]. Withdrawal of such servants.

<sup>2</sup> [ (5) Government servants employed under local boards shall be entitled to leave and other privileges in accordance with the regulations applicable to the department of general administration to which they belong. ] Rules regarding the privileges of Government servants in the employ of local boards.

43. Every member or servant of a local board, or of a pancháyat, every contractor or agent, to whom the collection of any tax, toll, fee or other sum due to a local board or pancháyat is entrusted and every person engaged in the collection of such tax, toll, fee or sum, shall be deemed to be a public servant within the meaning of the Indian Penal Code.<sup>3</sup> Local boards' servants are public servants.

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<sup>1</sup> Repealed by this Act. See footnote to s. 4 (i), *supra*.

<sup>2</sup> These amendments were made, and sub-s. (5) was added, by s. 36 of Mad. Act VI of 1900, with effect from 1st April, 1901.

<sup>3</sup> Printed, General Acts, Vol. I.

The president to appoint servants.

Appointment of temporary servants in cases of emergency.

The president to fine, suspend or dismiss servants.

Rules as to securities, pensions, etc.

<sup>1</sup> 44. (1) The president shall, subject to such rules as the Governor in Council may prescribe, appoint such permanent servants as shall have been provided for in the manner aforesaid, and shall pay such permanent servants from the local fund the salaries that may be so fixed.

(2) The president may also in cases of emergency appoint such temporary servants as in his opinion may be required for the purposes of this Act, and may direct that the salaries of such temporary servants fixed as the emergency may require shall be paid from the local fund :

Provided that every appointment made under this sub-section shall be reported at the next following meeting of the local board.

45. The president may, subject to the provision in section 42, sub-section (3), and to such control as the Governor in Council may, from time to time, prescribe, fine, suspend or dismiss any of such servants and appoint others in their stead.

46. (1) The district board \* \* \* <sup>2</sup> may, from time to time, make rules consistent with this Act and with any rules framed by the Governor in Council as to the following matters in respect of the servants of all local boards <sup>2</sup> [ and pancháyats ] in the district :—

- (i) the servants who shall furnish security for the due performance of their duties ;
- (ii) the amount of such security ;
- (iii) the grant of leave to servants and the allowances to be paid to persons acting for such servants ;
- (iv) the period of service of all servants ;
- (v) the conditions under which such servants, or any of them, shall on retirement, receive pensions, gratuities or compassionate allowances <sup>2</sup> [ including the conditions under which any servant of a local board who is appointed to any office under Government shall, on his retirement from the service of the Government, receive a proportionate pension in respect of his service as a servant of the local board ] ;
- (vi) the amount of such pensions, gratuities or compassionate allowances (if any) ;
- (vii) the establishment of a pension or provident fund by such servants, and
- (viii) the rates at which and the conditions under which contribution shall be paid from the local fund towards such pension or provident fund, and the local board or boards by whom they are to be so paid :

<sup>1</sup> This section was substituted for the original section 44 by s. 37 of Mad. Act VI of 1900.

<sup>2</sup> The words " at a meeting " in sub-s. (1) were repealed, the words " and pancháyats " in sub-ss. (1) and (2) inserted, the words in square brackets in cl. (v) inserted and the proviso to sub-section (1) added, by s. 38 of Mad. Act VI of 1900.

<sup>1</sup>[ Provided that no rules as to the matters mentioned in clauses (iii), (v), (vi), (vii) and (viii) shall be valid until they have been confirmed by the Governor in Council.]

(2) Such rules shall be binding on all the local boards <sup>1</sup>[ and pancháyats ] in the district.

47. All persons in the employ of Government who, at the time this Act comes into force in any district, shall be performing any executive or ministerial duties in carrying out the purposes specified in this Act shall continue to discharge such duties under the orders of the Governor in Council, unless and until the Governor in Council shall otherwise direct.

Officers already employed by Government for similar purposes to be continued in office.

### 6.—Property of District and Taluk Boards.

48. [ Power to vest property in local board, and to withdraw it.] Rep. by s. 39, Mad. Act VI of 1900.

49. All public roads \* \* <sup>2</sup> in any district \* \* \* \* \*, <sup>2</sup> Public streets, etc., and the pavements, stones and other materials thereof, and also all erections, materials, implements and other things provided for such roads. \* \* \* <sup>2</sup> district board, shall vest in the district board :

<sup>2</sup>[ But it shall be competent to the Governor in Council, by notification, to exclude any road from the operation of this Act and to modify or cancel such notification.]

50. (1) All sewers, drains, drainage-works, tunnels and culverts in, along-side or under the <sup>3</sup> [ public roads ] in any district, whether made at the cost of the district board or otherwise, and all works, materials and things appertaining thereto, shall vest in \* \* \* <sup>3</sup> the district board.

Sewers, drains, etc., vested in the local board.

(2) All rubbish, sewage, filth and other matters collected under this Act shall vest in \* \* \* <sup>3</sup> the <sup>3</sup> [ local board or pancháyat at whose cost they are collected].

Rubbish, etc., to belong to local board.

(3) But it shall be competent to the Governor in Council to exclude, from time to time, by notification, any sewer, drain, drainage-work, tunnel <sup>3</sup> [ or culvert ] from the operation of this Act, and to cancel such notification wholly or in part.

51. (1) Nothing in this Act contained shall be deemed to affect the duties and powers vested in the Board of Revenue in respect of charitable endowments by <sup>4</sup> [ Madras ] Regulation VII of 1817.<sup>5</sup>

Saving of Revenue Board's powers in regard to charitable endowments.

<sup>1</sup> See the last footnote.

<sup>2</sup> The words "or streets" and the words "existing at the time this Act comes into force or which shall afterwards be made" were repealed and the last clause substituted for the proviso, by s. 40 of Mad. Act VI of 1900.

<sup>3</sup> The words "public roads" were substituted for the word "streets" in sub-s. (1), the words "and belong to" in sub-s. (1) and (2) were repealed, the words "local board or Pancháyat at whose cost they are collected," substituted for the words "district board" and the words "or culvert" substituted for the words "and culvert," by s. 41 of Mad. Act VI of 1900.

<sup>4</sup> The word "Madras" was inserted by s. 42 of Mad. Act VI of 1900.

<sup>5</sup> Printed, *supra*.

Power to transfer them to local board.

(2) <sup>1</sup>[ But, subject to the control of the Governor in Council, it shall be competent to the Board of Revenue with the written consent of the Local Board concerned], to make over to such local board the management and superintendence of any such endowment; and thereupon all powers and duties which attach to the Board of Revenue in respect thereof shall attach to such local board as if such board had been specifically named in the said Regulation.

Transfer of immoveable property by district board to taluk board. Such property to vest in the taluk board.

**52.** (1) The district board may, with the approval of the Governor in Council, or shall upon his direction from time to time, by notification, declare that any immoveable property vested in such district board shall vest in <sup>2</sup>[ any taluk board in the same district.]

(2) Such property shall, from the date specified in the said notification, vest in such taluk board, and thereupon all powers and duties which attach to the district board in respect of such property shall attach to such taluk board.

Local board may take over and repair certain roads or streets.

**53.** Any local board may agree with the person or persons, in whom the property in any road \* <sup>3</sup> in <sup>3</sup>[ its ] local area is vested, to take over the property therein, and, after such agreement, may declare, by notice in writing put up in any part of such road \* <sup>3</sup> that the same has become a public road. <sup>3</sup>\*. Thereupon such road \* <sup>3</sup> shall vest in such local board.

#### 7.—District and Taluk Funds.

What shall constitute the district fund.

**54.** (1) In each district there shall be constituted a fund, which shall be called the district fund, and there shall be placed to the credit thereof, unless otherwise appropriated under this Act,—

\* \* \* \* \*

- (i) the proceeds of the taxes, tolls and fees hereinafter authorized to be levied by the district board;
- (ii) the sale-proceeds of all property vested in the district board which may be sold under <sup>4</sup>[ its ] orders;
- (iii) all fines and penalties levied under the provisions of this Act;
- (iv) all contributions received from other local boards or municipal councils; and
- (v) all other sums of money which may be received by the district board in trust for the purposes of this Act.

<sup>1</sup> These words were substituted for the words " But it shall be competent to the Board of Revenue with the written consent of the Governor in Council and of the local board concerned," by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914), *infra*.

<sup>2</sup> These words were substituted for the words " the taluk board of the taluk wherein such property is situated," by s. 48 of the Madras Local Boards Act, 1900 (Mad. Act VI of 1900), with effect from 1st April, 1901.

<sup>3</sup> The word " street " has been repealed and the word " its " substituted for the word " their " by Mad. Act VI of 1900, s. 44.

<sup>4</sup> Cl. (i) was repealed, cls. (ii) to (vi) renumbered as (i) to (v), the word " its " substituted for the word " their " in new cl. (ii), and a proviso added to sub-s. (2) by s. 45 of the Madras Local Boards Act, 1900 (Mad. Act VI of 1900) with effect from 1st April, 1901.

(2) The district fund shall be lodged in such bank or Government treasury as the president, under the orders of the Governor in Council, may direct. All expenses incurred by the district board shall be paid out of such funds ; and all orders or cheques upon the said fund shall be signed by the president or, in his absence, by any person authorized by him in that behalf, and the treasury or bank in which such fund is lodged shall, so far as the funds to the credit of the district board admit, pay all such orders and cheques which are so signed :

District fund  
where to be  
lodged and  
how to be  
drawn  
against.

[<sup>1</sup> Provided that, if the district board shall have given previous authority in writing, such bank or treasury may at once pay out of such fund, without the issue of such orders or cheques, any expense which the Governor in Council has incurred on behalf of the district board.]

55. The district board shall, at such times as the Governor in Council may from time to time prescribe in that behalf, transfer to each taluk board within the district a sum not being less than one-half of the proceeds of the taxes levied by the district board in such taluk, and may, from time to time, with the approval of the Governor in Council, or shall upon his direction transfer to such taluk board any other sums forming part of the district fund.

Transfer of  
funds from  
district to  
taluk board.

56. (1) In every taluk there shall be constituted a fund, which shall be called the taluk fund, and there shall be placed to the credit thereof, unless otherwise appropriated under this Act,—

Taluk fund.

- (i) the sums transferred to the taluk board of such taluk under section 55 ;
- (ii) the sale-proceeds of all property vested in such taluk board, which may be sold under [<sup>2</sup> its ] orders ;
- (iii) all contributions received from other local boards or municipal councils ;
- (iv) the proceeds of all fees hereinafter authorized to be levied by the taluk board ; and
- (v) all other sums of money which may be received by such taluk board in trust for the purposes of this Act.

(2) The taluk fund shall be lodged in such bank or Government treasury as the president, under the orders of the Governor in Council, may direct. All expenses incurred by any taluk board shall be paid out of such funds ; and all orders or cheques upon the said fund shall be signed by the president, or, in his absence, by any person authorized by him in that behalf, and the treasury or bank in which such fund is lodged shall, so far as the funds to the credit of the taluk board admit, pay all such orders and cheques which are so signed :

Taluk fund  
where to be  
lodged and  
how to be  
drawn  
against.

<sup>1</sup> See the last footnote.

<sup>2</sup> The word "its" was substituted for the word "their" and a proviso added to sub-s. (2) by s. 46 of the Madras Local Boards Act, 1900 (Mad. Act VI of 1900), with effect from 1st April, 1901.

<sup>1</sup> [Provided that, if the taluk board shall have given previous authority in writing, such bank or treasury may at once pay out of such fund, without the issue of such orders or cheques, any expense which the Governor in Council has incurred on behalf of the taluk board.]

### CHAPTER III.

#### TAXES, TOLLS AND FEES.

Taxes and  
tolls.  
Rates and  
tolls under  
Act IV of  
1871.

**57.** The following are the taxes, tolls and fees which may be levied under this Act :—

- (i) a tax not exceeding two annas in the rupee on the annual rent-value of all occupied lands, on whatever tenure held, in the districts of Malabar, South Kanara and the Nilgiris, and not exceeding one anna in the rupee on the annual rent-value of such land elsewhere ;
- <sup>2</sup> [(ii) a tax not exceeding three pies in the rupee on the annual rent-value of all occupied lands to be utilized solely in the construction of tramways or rail-roads ;]
- <sup>2</sup> [(iii) a tax on houses situated within any union at rates not exceeding those laid down in Schedule A ;
- <sup>3</sup> [(iv) tolls upon carriages, carts or animals passing along roads within the district, <sup>4</sup> [ under any of the classes and at rates not exceeding those ] laid down in Schedule B <sup>5</sup> [ or upon foot-passengers going over such bridges and at such rates as the Governor in Council on the request of the district board may by notification approve ] : Provided that the net proceeds of the said tolls shall be applied to the purposes specified in <sup>6</sup> [ clause (i) of section 95],
- <sup>3</sup> [(v) fees for licenses granted for the temporary erection of pandals and other structures in <sup>7</sup> [ roads ] and other public places in an union at a rate <sup>7</sup> [ approved by the Governor in Council ] not exceeding three pies a day for every square yard or part thereof covered by such structures ;
- <sup>8</sup> [(vi) fees for the putting up in such local areas in a union, and at such rates as may be approved by the Governor in Council, of any

<sup>1</sup> See footnote to s. 56 (ii), *supra*.

<sup>2</sup> This clause was inserted as cl. (ii) and the original cl. (ii) re-numbered (iii) by s. 47 of the Madras Local Boards Act, 1900 (Mad. Act VI of 1900).

<sup>3</sup> These clauses were re-numbered by s. 47 (a) *ibid*.

<sup>4</sup> These words were substituted for the words " not exceeding the rates " by s. 47 (b) *ibid*.

<sup>5</sup> These words were inserted by *ibid*.

<sup>6</sup> These words were substituted for the words " clause I, section 95, *ibid*."

<sup>7</sup> The word " roads " was substituted for the word " streets " and the words in square brackets inserted by s. 47 (c) *ibid*.

<sup>8</sup> Cl. (vi) was added by 47 (d) *ibid*.



verandah, balcony, sunshade, weather-frame, or the like, to project over the road in front of any building or land;] and

- <sup>1</sup> (vii) fees for the <sup>2</sup> [use of cart-stands, markets and slaughter-houses constructed or maintained from the local fund and fees for the temporary occupation of choultries, travellers' rest-houses], market-sites, village-sites, <sup>2</sup> [roads] and other similar public places <sup>2</sup> [or parts thereof] \* \* \* \* <sup>2</sup> at such rates as may be fixed by the taluk board <sup>2</sup> [with the approval of the Governor in Council].

**58.** The district board \* \* <sup>3</sup> may, subject to the provisions contained in the last preceding section, from time to time determine, with the approval of the Governor in Council, that any one or more of the said taxes and tolls shall be levied at rates not exceeding those specified in the last preceding section :

District Board may, with the approval of the Governor in Council, determine to levy taxes.

<sup>3</sup> [ Provided that the tax mentioned in clause (ii) of the aforesaid section shall not be levied unless the levy thereof is determined by a resolution of the district board supported by not less than three-fourths of the members present at a meeting specially convened in that behalf, such resolution being confirmed after a period of six months by a like majority at a like meeting.]

**59.** If at any time it seems advisable to the Governor in Council that the funds required for the purposes of this Act shall be raised in any district, taluk or union from all or any one or more of the taxes and tolls mentioned in <sup>4</sup> [ clause (i) and clauses (iii) to (vii) of ] section 57, the Governor in Council may direct the district board to levy such taxes or tolls at any rate or rates not exceeding those authorized by this Act as he may deem necessary, unless the district board shall show cause to the contrary within three months after the receipt of the order containing such direction. If the district board <sup>4</sup> [ fails ] to show cause within the said time to the satisfaction of the Governor in Council, the taxes or tolls so directed to be levied shall be levied in such district, taluk or union as if the levy of the same had been determined by the district board with the approval of the Governor in Council :

Governor in Council may direct the levy of taxes, unless the district board show cause to the contrary and may cancel or modify such direction.

Provided that it shall be competent to the Governor in Council, from time to time, to modify or cancel such direction.

**60.** When the district board shall have determined, with the approval of the Governor in Council, to levy any tax or toll, such board shall at once issue a notification and make proclamation by beat of drum in the villages in which the tax or toll is to be levied, specifying the rate at which such tax or toll is to be levied, and intimating that such tax or toll will be levied from a date to be

District board to issue notification intimating that tax, etc., will be levied.

<sup>1</sup> See footnote to clause (iv), *supra*.

<sup>2</sup> These words in square brackets were substituted for the words " temporary use of cart-stands and of markets," the words " roads " and " or parts thereof " inserted, the words " on the occasion of fairs and festivals " omitted, and the words " with the approval of the Governor in Council " added by s. 47 (c) of Mad. Act VI of 1900, *infra*.

<sup>3</sup> The words " at a meeting " were omitted, and the proviso added to s. 58, by s. 48 *ibid*.

<sup>4</sup> The words " clause (i) and clauses (iii) to (vii) " were inserted, and the word " fails " substituted for the word " fail," by s. 49 of Mad. Act VI of 1900.

Tax, etc., to be levied

specified in such notification, and such tax or toll shall be levied in the manner hereinafter provided, until such time as the said notification shall be modified or cancelled.

\* \* \* \* \*

Levy of fees. **61.** The taluk board \* \* \* <sup>2</sup> may, subject to the provisions contained in section 57, from time to time determine <sup>2</sup> [ with the approval of the Governor in Council ] to levy the fees specified in clauses <sup>2</sup> [ (v), (vi) and (vii) ] of that section, at such rates as <sup>2</sup> [ it ] may deem fit.

Notification thereof. **62.** (1) When the taluk board shall have determined <sup>3</sup> [with the approval of the Governor in Council] to levy any fees, <sup>3</sup> [it] shall at once proclaim, by an order in writing and by beat of drum, in the villages in which such fees are to be levied, that such fees will be levied from the date specified in such order and at the rate fixed therein, until such time as the said order shall be modified or cancelled.

(2) Such fees shall be levied in the manner hereinafter provided.

(3) Copies of such order shall also be exhibited at the office of the taluk board and at some conspicuous place or places in the villages in which such fees are to be levied.

Exemption from tax, etc. **63.** The Governor in Council may, at any time, by notification,<sup>4</sup> exempt <sup>6</sup> [ in whole or in part ], either on the ground of poverty or for any other sufficient cause, any local area, person or class of persons, <sup>6</sup> [ carriages, carts or animals ], from any one or more or all of the taxes, <sup>5</sup> [ tolls ] or fees leviable under this Act, and may in like manner modify or cancel such exemption.

#### *1.—Tax on the Annual Rent-value of Land.*

Annual rent-value of lands how to be fixed. **64.** If the district board <sup>6</sup> [ notifies ] under section 60 that a tax on the annual rent-value of land shall be levied, such annual rent-value shall be calculated in the following manner :—

Lands held under raiyátwári settlement. (i) In the case of lands held direct from the Government under a raiyátwári settlement, and also in the case of land situated in the district of Malabar on whatever tenure held, the assessment payable to Government for the land, together with any water-rate which may be payable for its irrigation, shall be taken to be the annual rent-value of such lands ;

<sup>1</sup> The proviso to s. 60 was repealed by s. 50 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900), with effect from 1st April, 1901.

<sup>2</sup> The words "at a meeting" were omitted, the word "it" substituted for the word "they," the words "with the approval of the Governor in Council" inserted after the word "determined", and the figures "(v), (vi) and (vii)" substituted for the figures "(iv) and (v)" by s. 51 of Mad. Act VI of 1900.

<sup>3</sup> These words were inserted, and the word "it" substituted for the word "they", by s. 52 of Mad. Act VI of 1900.

<sup>4</sup> For notifications under this section, see Madras List of Local Rules and Orders, Vol. II.

<sup>5</sup> These words were inserted by s. 53 of Mad. Act VI of 1900.

<sup>6</sup> The word "notifies" was substituted for the word "notify" by s. 54 of Mad. Act VI of 1900.

(ii) in the case of inám lands, or lands held wholly or partially free from Inám lands. assessment, the full assessment which such lands would bear if they were not inám, together with any water-rate which may be payable for their irrigation, shall be taken to be the annual rent-value; and such full assessment and water-rate shall be determined by the Collector of the district under the general orders of the Board of Revenue;

(iii) in the case of lands held on any other tenure, the annual rent payable to the landholder <sup>1</sup> [ or intermediate landholder holding on Lands held on any other tenure, an under-tenure created, continued or recognised by a landholder, as the case may be ], by his tenants, [<sup>2</sup>together with any water-rate which may be payable for their irrigation], shall be taken to be the annual rent-value of the lands held by such tenants; <sup>3</sup>[ and where such lands are occupied by the owner himself or by any person holding the same from him free of rent or at a favourable rent, the annual rent-value shall be taken to be the rent ordinarily payable to the landholder for lands of similar quality leased out by him in the neighbourhood, together with any water-rate which may be payable for the irrigation of the lands so occupied by the owner himself, or by any person holding the same from him as aforesaid; ]

(iv) when revenue or rent is paid in kind, the annual rent-value shall be calculated according to the rates of rent established or paid for neighbouring lands of a similar description and quality <sup>4</sup> [ to When revenue or rent is paid in kind. which shall be added the water-rate payable for the irrigation of the lands of which the revenue or rent is paid in kind ] :

<sup>5</sup> [ Provided that where any landholder has been permitted by the Collector under the provisions of clause IV, section 11, Madras Act VIII of 1865, to increase his rent in consequence of any additional payment by way of water-rate made by him to Government, the annual rent-value shall be the balance remaining after deducting such increase of rent up to the amount of the water-rate from the sum ascertained as aforesaid.] <sup>Proviso as to existing valuations.</sup>

**65.** The Collector may require every <sup>6</sup> [ landholder ] within the district, not being an owner of land in the district of Malabar, or a holder of land under raiyátwári tenure, to furnish him with an accurate list of the lands held by him, whether occupied by tenants or by himself, specifying, in each case, the <sup>Holders of land on other than raiyátwári tenure to furnish lists of their lands to Collector</sup>

<sup>1</sup> These words were inserted by s. 54 of the Madras Local Board's Act Amendment Act, 1900. (Mad. Act VI of 1900).

<sup>2</sup> These words were inserted by Mad. Act III of 1890, s. 1, *infra*.

<sup>3</sup> These words were substituted for the last fifty-two words of the original clause by s. 1 (2) of Mad. Act III of 1890. Printed, *infra*.

<sup>4</sup> These words were added by s. 1 (3) *ibid*.

<sup>5</sup> This proviso was substituted for the original proviso by s. 1 (1) *ibid*.

<sup>6</sup> This word was substituted for the words "holder of land" by s. 55 of Mad. Act VI of 1900.

annual rent-value of the lands so occupied [ <sup>1</sup> exclusive of the water-rate, if any, payable by his tenant direct to Government ].

Collector to assess tax according to list.

**66.** If the Collector is satisfied with the list furnished by a landholder in compliance with a requisition made under the last preceding section, he shall assess such landholder, according to such list, for the tax due in respect of lands held by him as aforesaid.

Penalty for failing to furnish such lists.

**67.** If any landholder shall neglect to comply with a requisition made under section 65 within six months after requisition made in the District Gazette or otherwise, such landholder shall be liable to a fine not exceeding rupees fifty for each day's delay, until the list be furnished or until the annual rent-value of such landholder's lands shall have been fixed by the Collector as provided in the next following section. The amount of such fine shall be fixed by the Collector of the district, and shall be recoverable as an arrear of tax.

If list be not furnished, Collector may fix the annual rent-value.

**68.** If no such list be furnished by any landholder within one month from the expiration of the six months aforesaid, the Collector of the district shall himself fix the annual rent-value of the lands held by such landholder as aforesaid.

Power of Collector to summon parties, etc.

**69.** The Collector of the district may take steps in the manner provided by Madras Act III of 1869 <sup>2</sup> for ascertaining the correctness of any list furnished in compliance with a requisition made under section 65, or, where such lists shall not have been furnished, for fixing the annual rent-value as provided in the last preceding section, anything in [ <sup>3</sup> Madras ] Regulation XXIX of 1802 <sup>2</sup> to the contrary notwithstanding, and he may depute any of his officers to make such inquiries as may be necessary.

Collector to amend list if dissatisfied with it.

**70.** If, after due inquiry, the Collector is dissatisfied with any list furnished to him as aforesaid, he shall amend the same, and shall supply such landholder with a copy of such amended list, which shall be taken to contain the annual rent-value of the lands held by him as aforesaid.

Appeal to Board of Revenue.

**71.** (1) An appeal shall lie to the Board of Revenue from the decision of the Collector under the last preceding section :

(2) Provided that such appeal be preferred within six months from the date of the Collector's decision.

(3) The order made on such appeal shall be final.

Tax to be entered in pattas of raiyátwári lands.

**72.** In the case of land held on raiyátwári tenure, the amount of the local tax [ <sup>4</sup> payable by the landholder shall be entered in his patta.]

Payment of local tax by landholder.

**73.** Every landholder shall pay to the Collector or other officer empowered by him to receive it, the local tax due in respect of lands held by him as afore-

<sup>1</sup> These words were added by s. 2 of Mad. Act III of 1890.

<sup>2</sup> Printed *supra*.

<sup>3</sup> The word "Madras" was inserted by s. 56 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

<sup>4</sup> These words were substituted for the words "shall be entered in the patta of the landholder" by s. 3 of Mad. Act III of 1890.

said [ <sup>1</sup> exclusive of the amount of such tax, if any, payable by the tenant as hereinafter provided ], on or before such dates and in such instalments as the Collector, under the general orders of the Board of Revenue, may by notification declare. [ <sup>1</sup> And if such lands be occupied by a tenant paying water-rate direct to Government, such tenant shall pay to the Collector, together with the water-rate, the local tax due on the amount of such water-rate : ]

[ <sup>2</sup> Provided that in all cases where a person holds lands with or without a right of occupancy as an intermediate landholder on an undertenure created, continued or recognized by a landholder, it shall be lawful for the landholder to recover from the intermediate landholder the whole of the tax paid by the landholder in respect of lands held by the intermediate landholder less one-half the tax assessable on the amount of any kattubadi, jodi, poruppu or quit-rent payable by the intermediate landholder to the landholder : ]

Provided [ <sup>2</sup> also ] that, in the case of lands occupied by tenants, it shall be lawful for the landholder [ <sup>2</sup> or the intermediate landholder, as the case may be, ] to collect and recover from his tenant one-half of the amount payable [ <sup>1</sup> by the landholder ] in respect of the land so occupied. Proviso as to liability of tenants.

[ <sup>2</sup> Illustration.

An intermediate landholder is entitled to receive from his tenants, if any, Rs. 500 as the annual rent on 100 acres of land. The intermediate landholder has to pay to the landholder Rs. 50 as kattubadi, jodi, poruppu or quit-rent. If the local tax be at rate of one anna per rupee, the landholder has to pay to the Collector Rs. 31-4-0 on Rs. 500, and the landholder can recover from the intermediate landholder the sum of Rs. 9-11-0, being the difference between Rs. 31-4-0 and half the local tax, viz., Rs. 1-9-0, assessable on the said Rs. 50. The intermediate landholder can recover from his tenants, if any, Rs. 15-10-0, being half the local tax on Rs. 500.]

**74.** Every landholder [ <sup>3</sup> or intermediate landholder, as the case may be, ] shall, in collecting or recovering the portion which may be due to him under the [ <sup>3</sup> provisos ] to the last preceding section, be entitled to exercise the same powers as may, under any Act or Regulation which now here is, or hereafter may be, in force, be exercised by any landholder in the collection and recovery of rent, and shall be liable to all the penalties prescribed therein for the abuse of such powers. Powers of landholders.

**75.** Every landholder coming within the meaning of clause (iii) of section 64 shall be entitled to a remission of one-half of the tax payable by him on so much of the whole annual rent-value of his land as is equal to the amount of the [ <sup>4</sup> permanently settled ] revenue payable by him to Government in respect of such land : Remission of one-half of the local tax in case of lands held on other than raiyatwari tenure.

These words were inserted in s. 73 and in the second proviso, by s. 4, cls. (1), (2) and (3), respectively, of Mad. Act III of 1890.

<sup>2</sup> These words were inserted and the proviso and illustration added by s. 57 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

<sup>3</sup> These words were inserted and the word " provisos " substituted for the word " proviso " by s. 58 of Mad. Act VI of 1900.

<sup>4</sup> These words were inserted in s. 75 by s. 5 of Mad. Act III of 1890

Proviso.

Provided that the amount recoverable by such landholder from his tenants under the [ <sup>1</sup> second ] proviso to section 73 shall be calculated upon the whole amount which would have been payable [ <sup>2</sup> by him ] to Government if no such remission had been allowed.

Arrears of tax how to be recovered.

**76.** When any landholder shall, on the date fixed by the Collector under section 73, have failed to pay, either in whole or in part, the tax due by him in respect of lands held by him as aforesaid, [ <sup>3</sup> or a tenant shall have failed to pay, either in whole or in part, the tax due by him, on the water-rate payable direct by him to Government in respect of lands occupied by him ], the said tax or such part of it as remains unpaid shall be recoverable in the same manner as if it were an arrear of revenue under [ <sup>4</sup> Madras ] Act II of 1864 <sup>5</sup>.

## 2.—Tax on Houses.

Tax on houses.

**77.** (1) If the district board [ <sup>6</sup> notifies ] under section 60 that a tax on houses shall be levied, such tax shall at the rate, and from the date, specified in such notification be levied on all houses situated within any union.

Karnams of each village to furnish list of houses and their owners.

(2) The karnam of every village situated within the union shall, on the requisition of the chairman of the pancháyat of such union, prepare and furnish to the chairman lists of all houses within the village or villages of which he is karnam, and shall enter in the same the names of the owners [ <sup>7</sup> and ] occupiers of such houses :

Karnam entitled to remuneration.

(3) Provided that the karnam shall be entitled, for the preparation of such lists, to receive such remuneration (if any) as the pancháyat at a meeting may fix subject to the approval of the taluk board having authority over such union.

Tax to be entered on such lists.

**78.** (1) The chairman of the pancháyat shall, on the receipt of the lists mentioned in the last preceding section, cause tax-books to be prepared. Such tax-books shall show in distinct columns the [ <sup>8</sup> names of the owner and of the occupier ] of each house, the class under which such house shall be taxed, the amount of the tax due and the date on which the tax is payable.

Exceptions to liability to taxation.

<sup>8</sup> [ (2) Lighthouses, and buildings exclusively used for charitable purposes or set apart for public worship and either actually so used or used for no other purpose, and buildings exclusively used as public choultries, hospitals or dispensaries, and buildings which are the property of local boards or pancháyats, shall not be liable to such tax.]

<sup>1</sup> The word "second" was inserted by Mad. Act VI of 1900, s. 59.

<sup>2</sup> These words were inserted in s. 75 by s. 5 of Mad. Act III of 1890.

<sup>3</sup> These words were inserted by s. 6 of Mad. Act III of 1890.

<sup>4</sup> The word "Madras" was inserted by Mad. Act VI of 1900, s. 60.

<sup>5</sup> Printed, *supra*.

<sup>6</sup> The word "notifies" was substituted for the word "notify" by s. 61 (a) of Mad. Act VI of 1900.

<sup>7</sup> The word "and" was substituted for the word "or" by s. 61 (b) of Mad. Act VI of 1900.

<sup>8</sup> These words were substituted for the words "name of the owner and occupier," and the present clause (2) substituted for the original, by s. 62 *ibid*.

(3) Every person claiming to be the owner or occupier of any house tax-able under this Act, or the agent of such person, shall be at liberty to inspect the tax-books at all reasonable hours and to make extracts therefrom without the payment of any fee. Inspection of tax-books.

**79.** (1) As soon as the tax-books are prepared, the chairman of the panchayat shall give public notice thereof by beat of drum in the union and of the place or places where the books may be inspected. Completion of tax-book to be notified.

(2) The chairman of the panchayat may, from time to time add to or amend the tax-books, by inserting therein the name of any person liable to be taxed, or by inserting any property liable to the tax, or by altering the classification of such property; and, in the case of every such amendment notice thereof shall be given to the person interested in such amendment. Amendment of tax-book.

<sup>1</sup> (3) The president of the taluk board may, at any time on his own motion or on the motion of any person interested, exercise any or all of the powers of the chairman of the panchayat under the last preceding sub-section, subject to notice being given as therein provided; and no order so passed by the president of the taluk board shall be varied or cancelled save by appeal under section 85. President of taluk board may exercise powers of chairman under the preceding sub-section.

**79A.** (1) The tax imposed under section 77 shall be payable by the owner or the occupier of the house in two equal instalments. Tax payable in two equal instalments.

(2) Subject to the provisions of sub-section (1) of section 80A, the instalment for each half-year shall be payable within thirty days after the commencement of such half-year. Instalments when due.

**80.** (1) When any house shall have been vacant for sixty or more consecutive days during any [ <sup>2</sup> half-year ], the chairman shall remit so much, not exceeding one-half, of the amount of the tax for the year as is proportionate to the number of days the said house may have remained vacant. Remission of tax on account of vacant houses

<sup>2</sup> (2) [ Every demand for a remission under this section shall be made during the half-year in respect of which the remission is sought or in the following half-year, and not afterwards. ] No person shall be entitled to such remission unless the owner of the house or his agent shall, at or about the time that the house becomes vacant, have given notice of such vacancy to the chairman, and the amount of tax to be remitted shall be calculated from the date of the delivery of such notice. Proviso as to notice of vacancy.

**80A.** (1) When any house in a union is constructed, reconstructed or enlarged, the owner shall give notice thereof to the chairman within fifteen days from the date of completion of such house, rebuilding or enlargement or from the date of occupation of the said house, whichever date happens first. The chairman shall on receipt of such notice assess the tax leviable in respect of the house, and the instalment for the half-year in which the assess- Notice to be given of houses newly constructed or reconstructed.

<sup>1</sup> Sub-s. (3) of s. 79 and s. 79A were added by ss. 63 and 64, respectively, of Mad. Act VI of 1900.

<sup>2</sup> The words "half-year" were substituted for the word "year", the first sentence added to sub-s. (2) of s. 80, and a new s. 80A added, by s. 65 of Mad. Act VI of 1900.

ment is made shall be payable within thirty days after the date of the service of notice issued under sub-section (1) of section 81, provided that, if such date of completion or occupation falls within the last two months of a half-year, no tax or enhanced tax, as the case may be, shall be levied in respect of the house for that half-year.

Remission or  
refund when  
house is  
destroyed.

(2) When any house is completely demolished or destroyed, the owner thereof may give notice to the chairman of such demolition or destruction; and, until such notice is given, such owner shall be liable at the discretion of the chairman to payment of the tax which would have been leviable had such house not been demolished or destroyed. If the said notice is given within the first two months of a half-year, no tax shall thereafter be levied in respect of the house, and any tax which may have been levied for that half-year shall be refunded.

Notice of de-  
mand for  
house-tax.

**81.** (1) Where any house-tax shall remain unpaid ten days after the same is due, the chairman of the pancháyat, or some person duly authorized in writing by him in that behalf, may serve upon the owner [ <sup>1</sup> or owner's agent ] or occupier of the house, or upon [ <sup>1</sup> all of them, ] a notice in writing in the form given in Schedule C, or to the like effect.

Distress.

(2) If such owner [ <sup>1</sup> or owner's agent ] or occupier shall not, within fifteen days from the service of such notice of demand [ <sup>1</sup> upon him, ] pay the sum due or show cause [ <sup>1</sup> to the satisfaction of the chairman ] why the same should not be paid, the chairman or other person duly authorized in that behalf by him may levy such sum, with all costs, [ <sup>1</sup> in any of the following ways :—

- (i) by distraint and sale of the moveable property of the defaulter or, if the defaulter be the occupier of any building in respect of which such tax is due, by distraint and sale of any property found in or on such building, provided that no property of the occupier shall be distrained unless he has been served with a notice as aforesaid ;
- (ii) if for any reason the distraint or a sufficient distraint of the defaulter's property is impracticable, by prosecuting him before a Magistrate.]

Penalty for  
wilfully  
omitting to  
pay tax or  
preventing  
distraint.

<sup>1</sup> (3) Any person bound to pay any tax who shall be prosecuted under this section before a Magistrate shall be liable, on proof to the satisfaction of the Magistrate that he wilfully omitted to pay the amount due by him or that he wilfully prevented distraint or a sufficient distraint, to pay a fine not exceeding twice the amount of the tax found to be due, and shall also pay such tax and the costs of the prosecution.

Warrant for  
distraint.

<sup>2</sup> **81A.** In order to the distraint and sale of property under sub-section (2) of section 81, the chairman of the pancháyat shall issue a warrant in

<sup>1</sup> These words were inserted, the words " all of them " were substituted for the word " both " certain matter and clauses added at the end of sub-s. (2) of s. 81, and a new sub-s. (3) added by s. 67 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

<sup>2</sup> S. 81A. was added by Mad. Act VI of 1900, s. 68.



the form prescribed in Schedule D, or in some similar form; and for each such warrant a warrant fee of two annas shall be leviable.

**82.** The chairman of the pancháyát or other person duly authorized as Inventory aforesaid shall make an inventory of the property [ <sup>1</sup> distrained ], and, if the amount due is not paid within fifteen days after [ <sup>1</sup> distraint ], the property may be sold. Sale.

**83.** Whenever any house-tax shall have been paid by the occupier, or recovered from him by seizure and sale of his property, it shall be lawful for him to deduct the amount so paid or recovered from the next and following payments of rent. Tax paid by occupier of house to be deducted from rent thereof.

**84.** (1) The chairman of the pancháyát shall not be bound to cause new lists or tax-books to be prepared every year, but may adopt those of the preceding year with such alterations and amendments as he may deem necessary: [ <sup>2</sup> provided that a fresh general assessment shall be made not less than once in four years ]. Tax-books, etc., need not be prepared annually.

(2) Public notice of such alterations and amendments thereof shall be given in the manner provided in section 79 and the other provisions of that section, and section 78 shall be applicable to such books and to the taxes mentioned therein.

**85.** (1) In the case of any assessment made or tax demanded by the chairman of the pancháyát [ <sup>3</sup> or president of the taluk board ] an appeal from his decision shall lie to the taluk board, [ <sup>3</sup> which ] shall hear and dispose of the same as [ <sup>3</sup> it deems ] fit at [ <sup>3</sup> its ] next meeting. Appeal.

(2) No such appeal shall be entertained—

- (i) unless it be made within thirty days after the tax complained of has been demanded, and
- (ii) unless the tax, if any, demanded by the chairman of the pancháyát [ <sup>3</sup> or president of the taluk board ] shall, except when the taluk board otherwise [ <sup>3</sup> directs ], have been paid or deposited at the union office on or before the day on which the appeal is made.

(3) In the event of the amount of any tax being decreased or remitted by the taluk board, the chairman of the pancháyát shall grant a refund accordingly.

(4) The assessment or demand of any tax, when no appeal is preferred and the adjudication of an appeal by the taluk board, shall be final.

**86.** The taluk board having authority over the union in which any house is situated may [ <sup>4</sup> on the ground of poverty, exempt from payment of the Exemption on the ground of poverty.

<sup>1</sup> These words were substituted for the words "seized" and "seizure," respectively, by s. 69 of Mad. Act VI of 1900.

<sup>2</sup> These words were inserted at the end of s. 84 (1) by s. 70 of Mad. Act VI of 1900.

<sup>3</sup> The words "or president of the taluk board" were inserted in sub-s. (1) and (2) and the words "which," "it deems," "its," and "directs" substituted for the words "who," "they deem," "their" and "direct," by s. 71 of Mad. Act VI of 1900.

<sup>4</sup> These words were substituted for the words "exempt from payment of the tax on the ground of poverty," and the clause added at the end of the section, by s. 72 *ibid.*

whole or any portion of the tax,] the owner or occupier of such house ; [ <sup>1</sup> it may in like manner, with the approval of the Governor in Council, exempt any classes of houses ].

3.—*Tolls on Vehicles and Animals passing along Roads in the District.*

Levy of  
tolls

**87.** (1) If the district board [ <sup>2</sup> notifies ] under section 60 that tolls on carriages, carts and animals passing along any road [ <sup>2</sup> or with the sanction of Government and for reasons connected with its construction and maintenance which shall be recorded, upon foot-passengers going over a bridge ] within the district shall be levied at the rates specified in the notification, such tolls shall be levied as provided in sections 88 to 92.

Composition  
for tolls and  
issue of  
licenses.

(2) The district board may compound with any person for a sum to be paid annually or half-yearly in lieu of all such tolls either generally in respect of all roads in the district or specially in respect of any particular road, and may issue licenses to any such person in respect of his carriages, carts and animals :

Provided always that such composition shall include all the carriages, carts and animals possessed by the person compounding.

No tolls to  
be levied in  
certain cases.

<sup>2</sup> (3) No tolls shall be levied for the passage of carriages, carts or animals—

(a) belonging to local boards ;

(b) conveying<sup>3</sup> \* \* \* \* \*

police-officers in uniform, local fund servants on duty, or persons or property in the custody of such officers or servants, or

(c) licensed by the district board during the period for which they have been so licensed :

nor shall tolls be levied for the passage over bridges of foot-passengers, if they are \* <sup>3</sup> police-officers in uniform or local fund servants on duty.

Declaration  
that payment  
of tolls at one  
gate or bridge  
shall clear  
carriages,  
etc., at any  
other gate  
or bridge.

<sup>2</sup> (4) With the sanction of the Governor in Council, it may be declared that payment of tolls on carriages, carts, animals or foot-passengers at any gate or bridge shall clear such carriages, carts, animals, or foot-passengers at any other gate or bridge specified.

Place at  
which tolls  
leviable to  
be notified.

**88.** The district board shall, with the approval of the Governor in Council declare by notification, from time to time, to be published in the Fort St. George Gazette, the places on any such road at which such tolls shall be collected, and may, from time to time, with the approval of the Governor in Council, in like manner cancel or modify such declaration.

<sup>1</sup> See the last footnote.

<sup>2</sup> The word "notifies" was substituted for the word "notify," a clause, inserted in s. 87 (1), a new clause substituted for sub-s. (3) of the section and sub-s. (4) added, by s. 73 of Mad. Act VI of 1900.

<sup>3</sup> The words "troops, military stores and baggage, military and," and the word "military or", were repealed by the Repealing and Amending Act, 1901 (XI of 1901).

89. (1) The district board shall thereupon construct toll-bars, gates and gate-keeper's stations at the places aforesaid, and may place the collection of such tolls under the management of such persons as may appear to [ <sup>1</sup> it ] proper, or may lease out the same, and may frame bye-laws for the guidance of toll-collectors. Toll-gates to be created  
Bye-laws

(2) At every toll-bar, gate or station a table of the tolls authorized to be taken shall be put up legibly written or painted in English words and figures and in a Vernacular language of the district, and when such table is not put up at any toll-bar, gate or station, no tolls shall be leviable thereat during such time. Table of tolls to be put up.

90. (1) No more than one payment of toll shall be demanded at any one toll-bar, gate or station in respect of any carriage, cart, [ <sup>2</sup> animal or foot-passenger ] in any one period of twenty-four hours counted from sunrise to sunrise : One payment to clear gate for one day.  
Proviso.

Provided that when toll has been paid at any toll-bar, gate or station in respect of any carriage, cart or animal not laden or ridden, the difference between such toll and the toll payable in respect of such carriage, cart or animal laden or ridden, shall be payable if such carriage, cart or animal again passes through such toll-bar, gate or station, laden or ridden, within such period.

(2) When payment of any toll is made a receipt shall be granted by the person to whom the payment is made in such form as the district board may, from time to time, prescribe. Receipts

(3) In case of non-payment of any such toll on demand, the person duly authorized to collect the same may seize any carriage, cart or animal in respect of which it is chargeable, or any part of its burden, and detain the same in his custody [ <sup>3</sup> or in the case of a foot-passenger may prevent his passage ]. In case of non-payment of tolls, vehicle, etc., may be seized,

(4) If any toll, together with the expenses occasioned by such seizure and detention, remains unpaid for twelve hours, the person duly authorized as aforesaid shall forthwith send the carriage, cart or other property seized as aforesaid to the nearest public officer empowered to sell distrained property under Act VII of 1839. and sent for sale.

<sup>3</sup> (5) Such officer shall forthwith give notice to the owner of the property seized or, if the owner is not known or is not resident in the neighbourhood, to the person who was in charge of the said property at the time when it was seized, and, if he is not found, publish by beat of drum, that after the expiration of two days, exclusive of Sunday, from the date of service or after the said publication of such notice, he will sell the said property by auction at a place to be specified in the notice : Provided that if, at any time before the sale has begun, the person to whom notice has been given or Notice of intended sale.

<sup>1</sup> The word "it" was substituted for the word "them" in s. 89 (1), by s. 74, of Mad. Act VI of 1900.

<sup>2</sup> These words were substituted for the words "or animals" by s. 90 (a) *ibid.*

<sup>3</sup> These words were inserted in sub-s. (3), and a new cl. (5) substituted, by s. 75 *ibid.*

<sup>4</sup> The Madras Rent and Revenue Sales Act, 1839, *supra*.

the owner of the property seized tenders to the said officer the amount due on account of the toll and of all the expenses occasioned by the non-payment thereof and by the seizure and detention of the property, the property seized shall be forthwith released.

**Sale.** (6) If after the expiration of the period specified in such notice the amount of such toll and of the said expenses remain unpaid, the said officer shall sell the property seized and pay the sale-proceeds to the district fund.

**Police to assist toll-collectors.** **91.** In all cases of resistance to the lawful authority of the toll-collectors appointed under this Act, all police-officers shall assist the toll-collectors when required, and for that purpose shall have the same power which they have in the exercise of their ordinary police-duties.

**Penalty for evading tolls.** **92.** If any person shall, with any carriage, cart or animal, go off or pass from any road on which a toll-bar, gate or gate-keepers' station has been constructed under the provisions of section 89 through or over any land [<sup>1</sup>with in a quarter of a mile of it], such land not being owned or occupied by such person and not being a public road, with intent to evade the payment of any toll leviable under the provisions hereinbefore contained, such person shall be liable to a fine not exceeding rupees fifty, and shall also pay the amount of the toll and costs of prosecution.

#### *A.—Fees.*

**To whom payable.** **93. (1)** If the taluk board [<sup>2</sup>proclaims] in the manner provided by section 62 that any fee shall be levied, such fee shall, at the rate mentioned in the proclamation, be paid on demand, by the person to whom licenses may have been granted under clause (<sup>2</sup>v), section 57, or by whom the cart-stands [<sup>2</sup>slaughter-houses], markets, market-sites, village-sites or other public places may have been used under clauses (<sup>2</sup>vi) and (vii), section 57, to the president of the taluk board, or to any person duly authorized in that behalf by such president.

**How recoverable in default.** (2) If such fee is not so paid, the moveable property of the person by whom it is payable shall at once be seized and sold by the president of the taluk board or by any person duly authorized by him in that behalf.

(3) In the case of any fees levied under [<sup>2</sup>clauses (v), (vi) and (vii)] of section 57 in any union, such fees shall be paid on demand to the chairman of the pancháyát of such union, who shall have and exercise all the powers conferred by [<sup>3</sup>sub-section(2)] on the president of the taluk board.

<sup>4</sup> [(4) The taluk board or the *pancháyát*, as the case may be, may lease out any fees leviable under clause (vii) of section 57 on such terms and

<sup>1</sup> These words were substituted for the words "adjoining thereto" by s. 76 of Mad. Act VI of 1900.

<sup>2</sup> The word "proclaims" was substituted for the word "proclaim," the word "slaughter-houses" inserted after the word "cart-stands," the figures "(v), (vi) and (vii)" substituted for the figures "(iv) and (v)" in sub-s. (3), the word and figures "clauses (v), (vi) and (vii)" for the word and figure "clause (v)," and s. 93 A added, by ss. 77 and 78, respectively, of the Madras Local Boards Act, 1900 (Mad. Act VI of 1900).

<sup>3</sup> The words "sub-section (2)" were substituted for the words "this section," in sub-section (3) by s. 5 (a) of Mad. Act III of 1913.

<sup>4</sup> Sub-section (4) was added by s. 5 (b) *ibid*.

subject to such conditions as it may deem fit. Fees so leased out shall be paid on demand to the lessee or to any person duly authorized by him in that behalf.]

*Collection of Taxes.*

**193 A.** The president of the taluk board or the chairman of the pancháyát shall give to every person making payment of a tax or fee, a receipt therefor signed by him or by some person duly authorized by him in that behalf. Such receipt shall specify--

Receipts to be given for all payments of taxes.

- (i) the date of the grant thereof ;
- (ii) the name of the person to whom it is granted ;
- (iii) the tax or fee in respect of which the payment has been made ;
- (iv) the period for which the payment has been made ; and
- (v) the amount in respect of which it is granted.

**194.** Whenever under the provisions of sections 81, 90 and 93 any property is distrained, seized or sold in consequence of the non-payment of any tax, toll or fee due, such distraint, seizure and sale shall be effected subject to the provisions of section 271 of the Code of Civil Procedure<sup>3</sup> and] to the conditions, exceptions and exemptions hereinafter provided.

Conditions of distraint and sale.

XIV of 1882.

(i) The following property shall not be liable to distraint :—

Exceptions.

- (a) the necessary wearing-apparel [<sup>2</sup>and bedding] of the defaulter, his wife and children,
- (b) the tools of artisans, and,
- (c) where the defaulter is an agriculturist, his implements of husbandry and such cattle [<sup>2</sup>and seed-grain] as may, in the opinion of the president of the [<sup>2</sup>local] board or the chairman of the pancháyát under whose authority such seizure is made, be necessary to enable the defaulter to earn his livelihood.

(ii) The distress shall not be excessive, that is to say, the property distrained shall be, as nearly as possible, proportionate to the amount due [<sup>2</sup>on account of the tax, toll or fee and distraint-fee and the probable expenses incidental to the detention and sale of the said property].

Limit.

(iii) When the property seized is subject to speedy and natural decay, and when the expense of keeping it in custody and the amount of the tax due will exceed its value, the person seizing the property shall at once, after seizure of such property, give notice to the person in whose possession it was when seized to the effect that it will be sold at once, and shall sell it accordingly unless the amount due be forthwith paid.

Perishable property.

<sup>1</sup> See first footnote to s. 93, *supra*.

<sup>2</sup> These words were inserted, and the word "local" substituted for the word "taluk," by s. 79 of Mad. Act VI of 1900.

<sup>3</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

Surplus  
sale-proceeds.

- (iv) Any surplus that may remain after deducting the amount of the toll, tax or fee and of the said expenses, including the expenses of the sale, shall be returned, on demand, if made within six months to the owner of the property, or, if no demand be made within such period, shall be credited to the [<sup>1</sup> local] fund.

Recovery of  
amount due  
by suit not  
precluded.

<sup>1</sup> 94 A. Nothing herein contained shall preclude the institution of a suit for any amount due under this Act.

## CHAPTER IV.

### DUTIES, RESPONSIBILITIES AND MUTUAL RELATIONS OF LOCAL BOARDS.

Matters to be  
provided for  
by local  
boards.

95. Every local board shall, subject to such rules as may from time to time be prescribed by the Governor in Council, and so far as the funds at [<sup>2</sup>its] disposal may admit, provide \* \* \* \*<sup>2</sup> within the areas under their authority [<sup>2</sup>or with the special sanction in each case of the Governor in Council without the said areas for the following purposes].—

- (i) the construction, repair and maintenance of [<sup>2</sup>roads], bridges and other means of communication ;
- (ii) the planting and preservation of trees on sides of roads and on other public places ;
- (iii) the construction [<sup>2</sup>maintenance] and repair of hospitals, dispensaries, lunatic asylums, choultries, markets, [<sup>2</sup>slaughter-houses, cart-stands], drains, sewers, [<sup>2</sup>latrines], water-works, tanks and wells, the payment of all charges connected with the objects for which such buildings have been constructed, the training and employment of medical practitioners and vaccinators, the sanitation of towns and villages, the cleansing of the streets, [<sup>2</sup>drains, sewers, latrines], tanks and wells and other works of a similar nature ;
- (iv) the diffusion of education, and, with this view, the construction and repair of school-houses, the establishment and maintenance of schools, either wholly or by means of grants-in-aid, the inspection of schools and the training of teachers ;
- (v) the establishment and maintenance of relief-works in time of famine or scarcity ;
- (vi) other measures of local public utility calculated to promote the safety, health, comfort or convenience of the people ;

<sup>1</sup> The word "local" was substituted for the word "district," and section 94A was added, by ss. 79 (e) and 80, respectively, of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

<sup>2</sup> The word "its" was substituted for the word "their", the words "for the following matters" repealed, certain words inserted at the end of the first paragraph of s. 95, the word "roads" substituted for the word "streets," and certain words inserted in clause (iii), by s. 81 of Mad. Act VI of 1900.

- (vii) the payment of salaries, leave-allowances, pensions, gratuities and compassionate allowances to servants employed by the local board ;
- <sup>1</sup>[(viii) the payment of any amounts falling due on any loans legally contracted by the local board ;]
- <sup>1</sup>(ix) the payment of all expenses specially provided for by this Act <sup>1</sup>[or specially sanctioned by the local board with the approval of the Governor in Council], but not included under the preceding clauses of this section <sup>1</sup>[and the payment of refunds sanctioned by the local board].

**96.** [*Responsibility of Local Boards.*] *Rep. by s. 82, Mad. Act VI of 1900.*

**97.** The Governor in Council may at any time, with the consent of any local board, transfer to such local board the management of any institution or the execution of any work not provided for by this Act, and it shall thereupon be lawful for such board to undertake the management of such institution or the execution of such work :

Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the local board by the Governor in Council.

#### 1.—*Projections and Obstructions.*

**98.** (1) No wall, fence or other obstruction or encroachment <sup>2</sup>[whether permanent or temporary] shall be erected on any public <sup>2</sup>[road] without the written permission of the president of the <sup>2</sup>[local board concerned] or of some person duly authorized by him in that behalf ; nor shall any building be erected <sup>2</sup>[or made] without such permission over any sewer or drain or any part of a sewer or drain, or upon any ground which has been covered, raised or levelled wholly or in part by road-sweepings or other rubbish.

(2) If any person erects such obstruction or building without such permission, or, where such permission shall have been granted, in a manner contrary to or inconsistent with the terms of such permission, the president of the <sup>2</sup>[local board concerned], or other person duly authorized as aforesaid, may by notice in writing require the person who shall have erected the obstruction or building to remove the same within a time to be specified in such notice :

<sup>2</sup>[Provided that the president of the local board concerned or other person duly authorized by him in that behalf may by a license allow any erection or structure referred to in clauses (v) and (vi) of section 57.]

<sup>1</sup> Cl. (viii) was inserted, the original cl. (viii), renumbered (ix) and certain matter inserted in clause (ix) as so renumbered, by s. 81 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

<sup>2</sup> The word "road" was substituted for the word "street" in s. 98 (1), the words "local board concerned" substituted for the words "taluk board," and the remaining matter inserted in the section, and a new proviso substituted for the original by s. 83 *ibid.*

Removal of  
projections,  
etc.

**1 98 A.** (1) The local board concerned may cause any projection, encroachment or obstruction made against or in front of any building or land in any public road to be removed or altered as it thinks fit.

Notice of  
removal.

(2) The local board concerned shall give notice of such intended removal or alteration to the owner or occupier of the building or land against or in front of which such projection, encroachment or obstruction has been made thirty days before such alteration or removal is begun.

Compensation  
when  
to be made.

(3) If such projection, encroachment or obstruction is not unlawful, the local board concerned shall make reasonable compensation to every person who suffers damage by such removal or alteration.

Holes and  
other ob-  
structions  
in a public  
road not  
to be made  
without the  
permission  
of the  
president.

**1 98 B.** No person shall make any hole or cause any other obstruction in any public road without the written permission of the president of the local board or any person authorized by him. If such permission is granted the person making such hole or obstruction shall at his own expense cause the same to be sufficiently fenced or otherwise enclosed until the hole is filled up or otherwise made secure or until the obstruction is removed, as the case may be, and shall similarly cause the same to be sufficiently lighted at night. If any person contravenes the provisions of this section, the president may fill up the hole or remove the obstruction or cause the same to be lighted, as the case may be, and may recover the cost of so doing from such person.

Payments  
for unauthor-  
ized occupa-  
tion of  
lands.

**1 98 C.** (1) If any person, without the previous sanction of the local board occupies any land set apart for a public purpose, vested in or belonging to such board, he shall be bound to pay in respect of such occupation such sums as may be demanded by way of penalty from time to time by the said board.

Amount  
how to be  
recovered in  
case of  
default.  
Amount  
leviable by  
distress.

(2) In case of default of payment of any such sum, the amount thereof may be recovered on the order of a Magistrate after such inquiry as he shall think fit upon complaint made by or on behalf of the local board.

(3) In default of payment of such sum, together with such costs as may be awarded, the same may be levied under the warrant of a Magistrate, with all such powers of distress or sale as are vested in him by any law in force.

Damage to  
local board's  
property to  
be made in  
good in  
addition to  
penalty.

(4) If any damage to the property of the local board has been caused by the person incurring the said penalty, he shall be liable to compensate the local board for such damage as well as to pay the said penalty. And the amount of such compensation shall, in case of dispute, be determined by a Magistrate and recovered in the same manner as is provided in this Act for the recovery of a penalty.

Power to  
call on owner  
or occupier  
of land  
adjoining  
public road

**1 98 D.** The local board may by notice require the owner or occupier of any land adjoining a public road to clear away all prickly-pear, wattle, lantana

<sup>1</sup> Ss. 98A, 98B, 98C and 98D were inserted by s. 84 of Mad. Act VI of 1900.



or noxious vegetation wherever it encroaches on such road and so far as it has spread from such land on to such road.

to clear encroachments of noxious vegetation on such road.

## 2.—Private and Public Wells.

**99.** The president of the taluk board, or any person duly authorized by him in that behalf, may require the owner of, or the person having control over, any private stream channel, tank, well or other place, the water of which is used for drinking, to cleanse and maintain the same in good repair, [to provide parapet walls for the same and also to protect any such well from pollution by surface drainage in such manner as he may think fit], or, whenever the said water is proved to the satisfaction of the taluk board to be unfit for drinking, to desist from so using such water or permitting others so to use it, and if, after such notice, the water of such well, tank or reservoir is used by any person for drinking, the president of the taluk board may require the owner or person having control thereof to close such well, tank or reservoir either temporarily or permanently, or to enclose or fence such well, tank or reservoir in such manner as he may direct, so that the water thereof may not be used for drinking :

Closing and cleansing of wells, etc.

<sup>1</sup> [Provided that in the case of private streams, channels, tanks, wells or other places mentioned in this section, the water of which is used for drinking by the public or any section of the public by right, the expenses incurred in the closing or the fencing of such well, tank or reservoir, shall be paid by the taluk board from the taluk fund.]

**100.** (1) The taluk board may, by notice, require the owner of any tank or well to cleanse, fence, repair or fill it up, if, on inspection, it appears likely to be dangerous, or prove injurious to the health of the neighbourhood ;

Taluk board may direct owners to cleanse or fill up tanks and wells, and to drain off stagnant water.

(2) or it may, by notice, require the owner or occupier of any land or premises to drain off or otherwise remove any stagnant water from such land or premises or from any tank or well situated therein, if it considers that such stagnant water is injurious to health or offensive to the neighbourhood ;

(3) Such notice may specify the mode in which such cleansing, filling up, repairing, fencing or drainage is to be effected and the time within which specified portions thereof must be done.

Order may specify mode in which work is to be done.

**100A.** (1) The taluk board may set apart public springs, tanks, wells and other places and parts of public water-courses for drinking purposes or for bathing or for washing clothes or animals or for any other purpose calculated to promote the health, cleanliness, comfort or convenience of the inhabitants ;

Taluk board may set apart public tanks, etc., for certain purposes.

<sup>1</sup> These words and the proviso to this section were inserted by s. 85 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

<sup>2</sup> This section was substituted for the original s. 100, and new sections 100A, 100B, 100C, 100D, 100E, 100F, 100G, 100H, 100I, 100J, 100K and 100L added, by sections 86 and 87, respectively, of Mad. Act VI of 1900. Printed, *infra*.

and, with the consent of the owners, may also set aside any private springs, tanks, wells or other places for any of the aforesaid purposes.

When taluk board may prohibit use of water from sources accessible to the public.

(2) The taluk board may during epidemics, on receipt of a certificate from any medical officer in the employ of such taluk board or of Government stating that such action is desirable, summarily by notice prohibit the use of water from any source to which the public have access. Such notice shall be served by placing a notification near the source of water-supply or by beat of drum, stating the number of days during which such prohibition shall last. The taluk board may extend or modify the notice from time to time without the production of a further certificate.

Penalty for using places so set apart for purposes other than those intended.

<sup>1</sup> 100B. Whoever—

- (i) bathes in or defiles the water in any place set apart for drinking purposes either by the taluk board, or in the case of private property by the owner thereof;
- (ii) deposits any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes, or
- (iii) washes clothing in any place set apart as aforesaid for drinking or bathing, or
- (iv) washes any animal or any cooking utensil or wool, skins or other foul or offensive substance or deposits any offensive or deleterious matter in any place set apart as aforesaid for drinking purposes or bathing or washing clothes, or
- (v) allows the water from a sink, sewer, drain, engine or boiler, or any other offensive matter belonging to him or flowing from any building or land belonging to or occupied by him, to pass into any place set apart as aforesaid for drinking purposes or for bathing or for washing clothes,

shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees fifty, and if the offence be a continuing one, to a further fine not exceeding rupees ten for every day during which the said offence is continued after conviction.

#### *Prevention of Infectious Diseases.*

President to have power of entry for inspection into buildings, etc., where infectious disease exists.

<sup>1</sup> 100C. (1) The president of a local board, or any person duly appointed by him in writing in this behalf, may enter at any time, after two hours' notice, into any building or premises in which any dangerous infectious disease is reputed or suspected to exist, for the purpose of inspecting such building or premises.

<sup>1</sup> See footnote to s. 100A, *supra*.

(2) No such inspection shall be made except in the hours between sunrise and sunset.

Inspection to be made between sunrise and sunset. Disinfection of houses, etc.

(3) If the president or such person is of opinion that the cleansing or disinfecting of a building or premises or of a part thereof, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, he may by notice require the owner or occupier to cleanse or disinfect the same within a time to be specified in such notice: Provided that if the president or such person considers that immediate action is necessary or that the owner or occupier is, by reason of poverty or otherwise, unable effectually to comply with his requisition, the said president or such person may himself cause such building, premises or articles to be cleansed or disinfected, and for this purpose may cause such articles to be removed from such building or premises; and the expenses incurred by the president or such person under this sub-section shall be recoverable from the said owner or occupier unless he was, by reason of poverty, unable effectually to comply with the said requisition.

<sup>1</sup> 100D. (1) The president shall, from time to time, notify places at which articles of clothing or bedding or other articles which have been exposed to infection from any dangerous infectious disease may be washed or disinfected.

President to notify places for washing and disinfecting articles exposed to infection.

(2) The president may direct the destruction of bedding, clothing or other articles likely to retain such infection, and shall on demand give compensation for the articles destroyed.

Infected articles may be destroyed.

(3) Whoever washes such clothing or bedding or other articles at any place other than those set apart for such purposes under sub-section (1) of this section, shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees fifty.

Penalty.

#### *Disposal of Corpses.*

<sup>1</sup> 100E. The taluk board shall provide a sufficient number of convenient and fitting places for burial and burning grounds.

Taluk board to provide burial and burning grounds.

<sup>1</sup> 100F. (1) Every owner or person having the control of any place used at the date of the coming into operation of this Act as a burial-ground or burning-ground shall, if such place be not already registered, apply to the taluk board to have such place registered.

Burial and burning grounds to be registered.

(2) If it appears to the taluk board that there is no owner or person having the control of any such place, the taluk board shall assume such control and direct it to be registered or may, with the sanction of the Governor in Council, cause it to be closed.

If no owner, taluk board may register or close.

<sup>1</sup> See footnote to s. 100A, ante.

No new burial or burning ground to be opened without license. A book to be kept of places registered or licensed. Penalty for burying or burning in unlicensed or unregistered place.

<sup>1</sup> **100G.** No new burial-ground or burning-ground, whether public or private, shall be opened, or used after the coming into operation of this Act, unless a license has been granted by the taluk board.

<sup>1</sup> **100H.** A book shall be kept at the office of the taluk board in which places registered under section 100F, or licensed under the last preceding section, shall be recorded.

<sup>1</sup> **100I.** Whoever buries or burns or causes or suffers to be buried or burnt any corpse in any place within one hundred yards of a dwelling-place or source of drinking-water supply other than a registered or licensed burial or burning ground shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees one hundred : provided that no prosecution shall be instituted without the written sanction of the president, district board.

<sup>1</sup> **100J.** The person having control of a burial-ground or burning-ground shall give information to any person appointed by the taluk board in that behalf of all burials and burnings which take place in or on such ground.

<sup>1</sup> **100K.** (1) If the district board is satisfied that any registered or licensed burial or burning ground is in such a state as to be, or to be likely to become, dangerous to the health of persons living in the neighbourhood thereof, or that any such place is overcrowded with graves, and, in the case of a public burial or burning ground, that another convenient place duly authorized for burial or burning, as the case may be, has been provided for the persons who would ordinarily make use of such place, it may, with the previous sanction of the Governor in Council, issue a notice that it shall not be lawful, after a period of not less than two months to be named in such notice, to bury or burn any corpse in or on such first-mentioned burial or burning ground.

Notice to be given to taluk board of burial, etc.

Where a burial or burning ground is dangerous to health and where in the case of a public burial or burning ground another convenient place is provided, notice may issue not to bury or burn.

Notice to be published.

Penalty for burying, etc., contrary to notice.

(2) Every such notice shall be published in the village concerned by beat of drum and in the District Gazette.

(3) Whoever, after the expiration of such period, buries or burns, or causes or permits to be buried or burnt, any corpse contrary to the terms of the notice shall on conviction before a Magistrate be liable to a fine not exceeding rupees one hundred.

#### Miscellaneous.

Dangerous places to be repaired or enclosed.

<sup>1</sup> **100L.** If any building, tank, well or hole or other place, whether on public or private ground, is, for want of sufficient repair, protection or enclosure, dangerous to the public health or safety, the taluk board may, by notice, require the owner or occupier of such place or of the land on which such building, tank, well or hole is situated, to cause the same to be repaired, protected.

<sup>1</sup> See footnote to s. 100A, ante.

or enclosed so as to prevent danger therefrom, within a time to be specified in such notice.

### 3.—Unwholesome Buildings and Lands.

**101.** Whenever any building or land shall, in the opinion of [the] taluk board, be in a state injurious to health or offensive to the neighbourhood, the president of the taluk board, or any person duly authorized by him in that behalf, may, by notice in writing, inform the owner or occupier of such building or land that, unless such owner or occupier cleanse or drain such building or land [within the time specified in the notice], the president of the taluk board, or any person authorized by him in that behalf will cause the same to be cleansed or drained.

1 \* \* \* \* \*  
1 \* \* \* \* \*

**2 101A.** The president of the taluk board, or any person duly authorized by him in this behalf, may, with the consent of the occupier of any building or land, or after giving six hours' notice to such occupier, between sunrise and sunset, enter into and upon any building or land either for the purpose of making any survey or inspection or for doing any other act necessary for carrying out the purpose of this Act, without being liable to any legal proceedings or molestation whatsoever on account of such entry or of anything done in any part of such building or land in pursuance of this Act.

### 4.—Vaccination.

**102.** Every district board shall make provision for the gratuitous vaccination of all persons residing within the district—

- (i) by employing an adequate staff of duly qualified vaccinators, and
- (ii) by making suitable provision for, and defraying the charges of, maintaining a supply of vaccine-lymph and such public vaccinating stations as may be necessary.

**103.** The Governor in Council may, by a written license, authorize any medical practitioner or other person to perform the operation of vaccination, and may at any time suspend or cancel any such license.

**104. (1)** No fee or remuneration shall be charged by any public vaccinator for any vaccination performed, inspection made, certificate given or other thing done under this Act :

**3** [Provided that the president of the district board or some person or persons authorized by him in that behalf may, upon application by any person

<sup>1</sup> These words in square brackets were inserted and sub-ss. (2) and (3) omitted by s. 88 of Mad. Act VI of 1900.

<sup>2</sup> S. 101A was inserted by s. 88 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

<sup>3</sup> This proviso and sub-section (2) were added to s. 104 by s. 89 of Mad. Act VI of 1900.

Cleansing  
and draining  
of buildings.

Power to  
enter upon  
land for  
purposes of  
Act.

Provision  
for vaccina-  
tion.

Licensed  
vaccinator.

No fee to be  
charged for  
vaccination  
by any public  
vaccinator  
or for certi-  
ficates.  
But fee may  
be levied for  
vaccination  
etc., at  
private  
houses.

and upon the payment by him of such fee as the district board may have prescribed, direct a public vaccinator to perform vaccination or to make an inspection as hereinafter provided at the private residence of such person.

Vaccination of gosha females.

<sup>1</sup> (2) If the application mentioned in the proviso to sub-section (1) is made in respect of a female who according to the customs of the country does not appear in public, the application shall be complied with and no fee shall be charged in respect of such compliance.

Certificate of vaccination.

**105.** (1) The parent or guardian of any child successfully vaccinated may require from the vaccinator a certificate to the effect that the child has been successfully vaccinated, and the vaccinator shall furnish such certificate.

Certificate when child is insusceptible of vaccination.

(2) If the vaccinator is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate to that effect.

#### *Compulsory Vaccination.*

Governor in Council may declare vaccination compulsory.

**106.** (1) The Governor in Council may, by notification, declare that vaccination shall be compulsory in any district <sup>2</sup>[or any portion of a district] from a date to be specified in such notification, and may, from time to time, in like manner, cancel or modify such declaration.

District board to proclaim that vaccination is compulsory. Unprotected child to be vaccinated.

(2) On the publication of the said notification the district board shall cause to be proclaimed by beat of drum and by publication in the District Gazette that vaccination is compulsory <sup>2</sup>[in the said area].

**107.** (1) The parent or guardian of any unprotected child who is \* \* \* six months old but is under ten years of age, and who has resided within the limits of such <sup>3</sup>[area] for a period of six months after such proclamation, shall take or cause it to be taken to a vaccinator or shall procure its vaccination by a vaccinator :

Provided that no parent or guardian shall be bound to take or cause to be taken any child in order to procure its vaccination or inspection beyond the limits of the village in which such parent or guardian resides.

President of a district board may cause child exposed to infection to be vaccinated. Vaccinator to deliver certificate of postponement.

<sup>4</sup> (2) The president of the district board or some person or persons authorized by him in that behalf may direct the vaccination of any child under six months of age, when it is exposed to infection in consequence of residence in a house infected by small-pox.

**108.** (1) Such vaccinator shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate to the effect that the child is in a state unfit for vaccination.

<sup>1</sup> See last footnote.

<sup>2</sup> These words were inserted in s. 106 (1), and the words "in the said area" substituted for the words "in the district" in sub-s. (2), by s. 90 of Mad. Act VI of 1900.

<sup>3</sup> The words "more than" were omitted and the word "area" substituted for the word "district" in section 107, by s. 91 of Mad. Act VI of 1900.

<sup>4</sup> Sub-s. (2) was added to this section by s. 91, *ibid.*

(2) A certificate granted under this section showing the unfitness of a child for vaccination shall remain in force for such period not exceeding three months as shall have been stated therein; and on the termination of that period the parent or guardian of such child shall, subject to the proviso contained in the last preceding section, take the child or cause it to be taken to such vaccinator as aforesaid to be vaccinated, or procure its vaccination at his own house by such vaccinator, and shall subsequently cause it to be inspected in the manner hereinafter provided:

Procedure when child is unfit for vaccination. Renewal of postponement certificate.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate shall be renewed.

**109.** Such vaccinator shall, if he finds the child to be in a state fit for vaccination, vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation.

Vaccinator to vaccinate child.

**110.** (1) The parent or guardian of every child which has been vaccinated under the last preceding section shall, subject to the proviso contained in section 107, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to such vaccinator for inspection, or shall procure its inspection by such vaccinator; and such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Inspection after vaccination.

(2) When it is ascertained, at the time of inspection under this section, that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect; and such child shall thereafter be deemed to be protected.

Procedure when vaccination is successful.

(3) When it is ascertained that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated, and shall subsequently cause it to be inspected in the manner provided in sub-section (1) of this section.

Procedure when vaccination is unsuccessful.

(4) If the vaccinator is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of vaccination, he shall deliver to the parent or guardian of such child a certificate to that effect; and the parent, or guardian shall thenceforth not be required to cause the child to be vaccinated.

Certificate of insusceptibility.

**111.** No private vaccinator shall be bound to vaccinate any child or make any inspection under sections 107, 108, 109 and 110, but, if such vaccinator perform the operation of vaccination or make any inspection under the aforesaid sections, such vaccinator shall grant the certificates mentioned in the said sections.

Private vaccinator.

**112.** <sup>1</sup>(1) The president of the district board, or any person authorized by him in that behalf, shall ascertain which children under the age of ten years

Notice to parent or guardian of unprotected child, etc.

<sup>1</sup> Sub-s. (1) was substituted for the original sub-section, certain words substituted for original matter at the end of sub-s. (2), and new sub-ss. (3) and (4) substituted for the original sub-s. (3), by s. 92 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

within the district or portion of a district proclaimed under sub-section (2) of section 106 are unprotected; and, for the said purpose, he may require any parent or guardian to forward to him within a specified time a list in writing signed by him, of the number and ages of the children under his guardianship; and, if he has reason to believe that the parent or guardian of any unprotected child is bound by the provisions hereinbefore contained to procure the vaccination or inspection of such child and has omitted so to do, he shall make inquiry, and shall, if the fact is proved to his satisfaction, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated or inspected, as the case may be, at a time and place to be specified in the notice.

If notice is disobeyed, Magistrate to direct obedience.

(2) If such notice is not complied with, the president of the district board or such person shall send a report on the matter to the Magistrate, who shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, <sup>1</sup>[sentence such parent or guardian to pay a fine not exceeding rupees twenty].

The Magistrate to direct compliance with notice before given date.

<sup>1</sup> (3) If the Magistrate finds the explanation given by the parent or guardian of the child to be satisfactory, he shall make an order in writing directing such parent or guardian to comply with the notice given under sub-section (1) before a date specified in the order, and, if on such date the said order has not been obeyed, the Magistrate shall again summon the parent or guardian to appear before him and shall proceed as before.

No penalty where animal lymph demanded but not available.

<sup>1</sup> (4) No penalty shall be imposed under this section if it is proved that the parent or guardian has demanded the use of animal vaccine-lymph and that such lymph has not been available.

**113.** [*Provision as to person who does not appear in public.*] *Rep. by s. 93 of Mad. Act VI of 1900.*

Penalty for signing a certificate by unlicensed vaccinator.

**114.** Whoever, after the publication of the notification mentioned in section 106, not being a vaccinator under this Act, wilfully signs or makes a certificate purporting to be a certificate granted under this Act, shall be liable to a fine not exceeding rupees five hundred.

Penalty for signing a false certificate.

**115.** Whoever, being a vaccinator, wilfully signs or makes, or procures the signing or making of, a false certificate, or, being bound to grant a certificate under this Act, refuses or neglects to grant the same, shall be liable to a fine not exceeding rupees one hundred.

Penalty for a public vaccinator furnishing a false statement or return to a public servant.

<sup>2</sup> **115A.** Whoever, being a public vaccinator, furnishes as true any statement or return to any public servant as such, which he knows or has reason to believe to be false, shall be deemed to have committed an offence punishable under section 177 of the Indian Penal Code.<sup>3</sup>

XLV of 1860.

<sup>1</sup> See footnote to sub-section (1).

<sup>2</sup> S. 115A was inserted, and a new section substituted for s. 116, by sections 94 and 95, respectively, of Mad. Act VI of 1900.

<sup>3</sup> Printed, Genl. Acts., Vol. I.



<sup>1</sup> 116. Inoculation is hereby prohibited ; and no person who has undergone the operation of inoculation shall leave the village or town in which he is, before the lapse of forty days from the date of inoculation, without a certificate from a medical practitioner of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Prohibition of inoculation.  
Inoculated persons not to leave their place of residence within forty days without certificate.  
Penalty for so leaving.

Whoever contravenes the provisions of this section shall, on conviction before a Magistrate, be liable to simple imprisonment for a term not exceeding three months, or to a fine not exceeding rupees two hundred, or to both.

#### 5.—*Private Latrines.*

117. (1) The president of the taluk board, or any person authorized by him in that behalf, may contract with the owner or occupier of any building or land to supply him on payment with a scavenger for the removal of night soil, <sup>2</sup>[sewage or other rubbish] from the building or land belonging to, or occupied by, such owner or occupier, on such terms and subject to such conditions as such president or person authorized by him as aforesaid may think fit.

Private scavengering.

(2) The amount due under such contract shall be payable on demand, and in default shall be recoverable in the manner provided for the recovery of fees under section 93 (2).

Recovery of fees.

#### *Markets.*

<sup>3</sup> 117A. The taluk board may declare any place ordinarily or periodically used or intended to be used for the sale of meat, fish, fruit, grain, vegetables, or other perishable articles of food, or for the sale of live-stock or poultry, to be a market : Provided that no such declaration shall be made in respect of any single shop or of any group of shops not being more than three in number, and that any such declaration may, at any time, but subject to the provisions of sub-section (2) of section 117B, be cancelled by the taluk board.

Taluk board may declare a place to be a market.

#### (a) *Public Markets.*

<sup>3</sup> 117B. (1) Subject to the sanction of the Governor in Council, the taluk board may charge such rents and fees as it may deem fit for the use of, or right to expose goods for sale in, public markets, and for the use of shops, stalls, sheds, pens and standings therein.

Taluk board may charge rents and fees for use of public markets

(2) The taluk board may, with the sanction of the Governor in Council, close any such market or any part thereof.

Taluk board may close public markets.

(3) The president may exclude from any such market any person who or whose servant has been convicted of disobeying any bye-law made for the

Power to exclude

<sup>1</sup> See footnote to s. 115A, *ante*.

<sup>2</sup> The words "sewage or other rubbish" were inserted by s. 96 of Mad. Act VI of 1900.

<sup>3</sup> Ss. 117A to 117Q were inserted by s. 97 of Mad. Act VI of 1900.

persons  
disobeying  
bye-laws  
and to de-  
termine  
lease, etc.

Appeal  
against order  
of the presi-  
dent under  
sub-section  
(3).  
Penalty  
for selling  
in public  
market in  
contraven-  
tion of the  
Act or  
bye-law  
made there-  
under.

Taluk board  
may notify  
villages  
where control  
over private  
markets is to  
vest in it.

License to  
be obtained  
for opening  
a private  
market, etc.

Applications  
for licenses  
to be made  
not less than  
thirty days  
in advance.

Taluk board  
may grant  
licenses for  
certain  
private  
markets.

regulation and control of such market, and may prevent such person by himself or his servants from further carrying on any trade or business in such market or occupying any stall, shop or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop or other place.

(4) Any person aggrieved by an order of the president issued under sub-section (3) may appeal against such order to the taluk board within thirty days from the date of receipt of such order, and the taluk board may either confirm, modify or cancel the order appealed against.

<sup>1</sup> 117C. Whoever, in contravention of this Act or any bye-law made thereunder, sells or exposes for sale any article within a public market, shall be liable to a fine not exceeding rupees twenty for each offence.

#### (b) Private Markets.

<sup>1</sup> 117D. With the approval of the Governor in Council, the taluk board may notify villages in which the control over private markets shall be vested in it, and thereafter in such villages the provisions of sections 117E—117I shall be applicable from and after the expiry of six months from the date of such notification.

<sup>1</sup> 117E. (7) Every person intending to open a new private market or to continue to use a private market for the sale, or exposure for sale, of animals or articles of food for human consumption, shall obtain from the taluk board a license to do so. In respect of a license for a new private market such fee shall be payable as may be fixed by the taluk board, not exceeding rupees one hundred per annum.

(2) Applications for licenses to open newly, or to continue to use, private markets shall be made by the owners thereof not less than thirty days before they propose to open them, or not less than sixty days before the commencement of the financial year during which they intend to continue to use them, as the case may be.

(3) The taluk board as regards private markets lawfully established at the coming into operation of this Act shall, and as regards all other private markets may, at its discretion, grant any license applied for under this section subject to such rules as to supervision and inspection and to such conditions as to conservancy and other matters as it thinks proper. The taluk board may refuse to grant a license to any new private market. It may also at any time for breach of the conditions thereof suspend or cancel any license which has been granted under this section. The taluk board may also modify the conditions of the license to take effect from the beginning of the following financial year.

<sup>1</sup> See the footnote to s. 117, *ante*.

(4) When a license to open a market is granted, or when a license is refused, suspended, cancelled or modified under this section, the taluk board shall cause a notice of such grant, refusal, suspension, cancellation or modification, in English and a vernacular language of the district, to be posted in some conspicuous place at or near the entrance to the place in respect of which the license was sought.

Notice of grant, etc., of license to be posted up.

(5) Every license granted under this section shall expire at the end of the financial year for which it has been granted.

Licenses to expire at end of year.

(6) If the taluk board neglects to pass orders upon an application for a license under this section and to communicate the same to the applicant within two months after the receipt of the application, the applicant may open the place in respect of which the application was made or, as the case may be, may continue to use such place during the financial year for which the license was sought; and the said place shall be held to be duly licensed for the financial year during which it was opened or for which the license was sought, as the case may be.

When market may be used without license.

<sup>1</sup> 117F. Whoever sells or exposes for sale any animal or article in an unlicensed private market, and any owner of such market directly or indirectly permitting the sale of such animal or article therein, shall on conviction before a Magistrate be liable to a fine not exceeding rupees twenty.

Penalty for selling or permitting to sell in unlicensed private market.

*Explanation.*—A market is unlicensed within the meaning of this section if the license for the use thereof has expired or has been cancelled or suspended.

<sup>1</sup> 117G. Every owner, farmer or occupier of any private market shall—

Private markets to be properly drained, etc.

- (i) construct such approaches, entrances, passages, gates, drains and cesspits therein as the taluk board directs;
- (ii) cause such market to be roofed and paved with such materials and in such manner, and to be provided with such latrines and urinals of such description and in such position and number, as the taluk board directs;
- (iii) provide for such supply of water to such market as the taluk board directs; and
- (iv) make such alterations in the stalls, passages, shops, doors or other parts of the said market or place as the taluk board directs.

<sup>1</sup> 117H. (1) If such owner, farmer, or occupier, after notice given to him by the taluk board, directing him to carry out within a period to be specified in the notice any of the measures provided in the last preceding section, fails to comply with such notice, the taluk board may suspend, withhold, cancel or refuse the license until the notice shall have been complied with; and any person opening or keeping open any such market after such withholding, suspension, cancellation or refusal shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees twenty for every day during which such market or place is so opened or kept open.

Penalty for default to drain, etc.

<sup>1</sup> See footnote to s. 117A, ante.

Penalty for not keeping private market properly or for not abating nuisance.

Power to close private market.

Appeal against orders under certain sections.

(2) Any owner, farmer, occupier, agent or manager in charge of any such market or of any shop, stall, shed or other place therein, who keeps the same so that it is a nuisance, or who does not cause anything that is a nuisance to be at once removed to a place to be notified by the taluk board, shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees twenty for each offence.

<sup>1</sup> 117I. The taluk board, or any officer duly authorized by it in that behalf, may summarily close any private market which is held or kept open, contrary to the provisions of this Act.

<sup>1</sup> 117J. Any person aggrieved by an order of the taluk board under sub-section (3) of section 117 E, or section 117 G, or section 117 I, may appeal against such order to the district board, within thirty days from the date of receipt of such order, and the district board may either confirm, modify or cancel the order appealed against; and pending such appeal the president, district board, may, if he thinks fit, suspend the execution of the order appealed against.

(c) General.

Local board may prohibit sale in public roads.

Penalty for selling after prohibition.

<sup>1</sup> 117K. (1) A local board may, from time to time, by notification, by beat of drum and by publication in the District Gazette, prohibit the sale, or exposure for sale, of any articles in or upon any specified public road or place or part thereof, and may in like manner cancel, suspend or modify such prohibition.

(2) Whoever, after such notification, sells or exposes for sale any articles in any such road or place against the terms of such notification, shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees ten.

*Public Slaughter-houses.*

Taluk board may provide slaughter-houses.

Taluk board may notify prohibition of the slaughtering, etc., of cattle in places other than public slaughter-houses. Penalty for failure to comply with such notification. Proviso.

<sup>1</sup> 117L. The taluk board may provide a sufficient number of places for the purposes of being used as public slaughter-houses, and may levy a fee on each animal slaughtered therein at rates not exceeding rupee one for every head of cattle, and annas two for every sheep, goat or pig.

<sup>1</sup> 117M. The taluk board may, with the previous sanction of the Governor in Council, notify that no person shall slaughter or permit to be slaughtered, or cut up or skin, or permit to be cut up or skinned, any cattle, sheep, goat or pig at any place in any town or village to be notified by name in the District Gazette, other than at a public slaughter-house provided by the taluk board, except with the written permission of the president. Any person acting in contravention of such notification shall on conviction before a Magistrate be liable to a fine not exceeding rupees twenty for each animal so slaughtered, cut up or skinned: Provided that nothing in this section shall be held to prohibit the slaughter of animals in the performance of religious rites in the places where it is usual to perform such rites, or for private use, but not for sale.

<sup>1</sup> See footnote to s. 117A, ante.

<sup>1</sup> 117N. The provisions of sections 117 L and 117 M shall not apply to places used by Government for the purposes mentioned in the said sections.

Government  
places  
exempted.

*Cart-stands, etc.*

<sup>1</sup> 117O. (1) The taluk board may, from time to time, provide places for the purpose of being used as cart-stands, public landing-places or public halting-places, and may levy fees for the use thereof.

Taluk board  
may provide  
cart stands,  
etc.

(2) If, upon demand by the person authorized to collect on behalf of the taluk board fees for the use of any such cart-stand, landing-place or halting-place, any person refuses or neglects to pay the prescribed fee, the provisions of section 90 shall, *mutatis mutandis*, apply.

If fee for use  
of cart-stand,  
etc., not paid  
property  
may be  
seized.

(3) A statement, in English and a Vernacular language of the district, of the fees prescribed by the taluk board for the use of cart-stands, public landing-places and public halting-places shall be posted conspicuously in every place where such fees are leviable. Unless such statement is so posted, no such fees shall be leviable.

Table of  
fees to be  
put up.

<sup>1</sup> 117P. (1) No person shall open or keep open a private cart-stand who has not obtained from the taluk board a license to do so.

License to  
be obtained  
for a private  
cart-stand.

(2) The fee payable in respect of such license shall not exceed rupees fifty per annum.

Fee leviable  
for the  
license.

(3) Any person who, in contravention of this section or of any bye-law made under this Act, opens or keeps open a private cart-stand without a license shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees twenty.

Penalty for  
keeping open  
without  
license.

(4) The taluk board may at any time for breach of the conditions thereof suspend or cancel any license which has been granted under this section.

Taluk board  
may suspend  
or cancel  
licenses.

(5) In all cases where the owner of a private cart-stand, open and in use at the commencement of this Act, duly applies for a license in respect of his cart-stand, the taluk board shall grant such license. In any other case the taluk board may, in its discretion, grant or refuse a license. Any license granted under this section shall be subject to such rules as to supervision and inspection and to such conditions as to conservancy as the taluk board may think proper.

When license  
shall be  
granted.

(6) The provision of this section shall not come into operation until bye-laws for the regulation and control of private cart-stands, to be made under section 152A of this Act, have come into force.

When this  
section shall  
come into  
operation.

<sup>1</sup> 117Q. The provisions of sections 98B, 100B, 100C, 100D, 100E, 100F, 100G, 100H, 100I, 100J, 100K, 117L and 117M, shall, unless and until the Governor in Council shall otherwise direct as to any particular area, apply only to areas included in unions.

Certain  
sections to  
apply only  
to areas  
included in  
unions.

<sup>1</sup> See footnote to s. 117A, ante.

Contributions  
to other local  
authorities.

<sup>1</sup> 118. If the expenditure incurred for any of the purposes described in section 95 by any authority constituted under the Madras District Municipalities Act, 1884,<sup>2</sup> or the City of Madras Municipal Act, 1884,<sup>3</sup> or other similar laws for the time being in force, is calculated to benefit the inhabitants of any local area, or if the expenditure incurred by a local board in any one local area is calculated to benefit the inhabitants of any other local area, the local board of the local area so benefited may, with the sanction of the Governor in Council, contribute towards such expenditure; or the Governor in Council may direct such local board to show cause, within a month after the receipt of the order containing the direction, why such contribution should not be paid. If the local board fails to show such cause within the said period to the satisfaction of the Governor in Council, he may direct the said local board to pay such contribution as he shall name, and it shall be paid accordingly.

Mad. Act IV  
of 1884.  
Mad. Act I of  
1884.

## CHAPTER V.

### UNIONS AND PANCHAYATS; THEIR CONSTITUTION, POWERS AND DUTIES.

Establishment in each union of a pancháyát consisting of not less than five pancháyát-dárs. Village-head man to be *ex-officio* member.

119. There shall be established for each union a pancháyát, having authority over that union, and consisting of not less than five persons, who shall be called members of the pancháyát.

Decision as to who is village-head-man.

120. (1) The headman of each <sup>4</sup>[revenue] village <sup>4</sup>[or portion of such village] comprised in the union shall *ex-officio* be a member of the pancháyát.

(2) If any doubt shall arise as to who is the headman of a <sup>4</sup>[revenue] village <sup>4</sup>[or portion of such village,] it shall be competent to the revenue-officer in charge of the division of the district wherein such <sup>4</sup>[revenue] village <sup>4</sup>[or portion of such village] is situated to declare by an order in writing who is such headman for the purposes of this Act.

Appointment of other pancháyát-dárs.

121. The other members of the pancháyát may be—

- (i) either wholly appointed by the Governor in Council, or
- (ii) partly so appointed and partly appointed by election by the taxpayers and inhabitants of the union or of a part thereof, subject to such rules and conditions as may, from time to time, be prescribed by the Governor in Council.

<sup>1</sup> This section was substituted for the original s. 118 by s. 98 of Mad. Act VI of 1900.

<sup>2</sup> Printed, *supra*.

<sup>3</sup> See now the Madras City Municipal Act, 1904 (Mad. Act 3 of 1904), *infra*.

<sup>4</sup> These words were inserted by s. 99 of Mad. Act VI of 1900.

**122.** The Governor in Council shall, on the provisions of this Act regarding pancháyáts coming into force in any union, declare—

- (i) what shall be the maximum number of members of the pancháyát for the time being to be appointed for such union, and
- (ii) the number of members of the pancháyát, if any, to be appointed by election in such union or in a part thereof.

The Governor in Council to declare the maximum number of pancháyát-dárs, and how many are to be elected.

<sup>2</sup>[Provided that the Governor in Council may, by notification, from time to time cancel or modify such declaration. But such notification shall not come into force until one month after the same shall have been published in the Fort St. George Gazette and in the local Gazette of the district.]

**123.** The Governor in Council may appoint one of the members of the pancháyát to be the chairman of the pancháyát, or may, by notification, from time to time, authorize the members of the pancháyát to appoint their chairman by election from among their own number, in accordance with such rules and conditions as may from time to time be prescribed by him, and may, at any time, by notification, cancel such authority.

The Governor in Council may appoint a chairman, or may authorize his appointment by election, and may withdraw such authority.

**124.** (1) Any person appointed to be a member of the pancháyát shall hold office for three years and shall then cease to be a member of such pancháyát, and any member of a pancháyát appointed to be chairman shall be deemed to have vacated his office on his ceasing to be a member of such pancháyát. \* \* \* \* \*

Term of office.

<sup>3</sup>[Provided that, when the person so appointed chairman be an *ex-officio* member of the pancháyát, he shall be deemed to have vacated his office of chairman at the expiration of three years from the date of his appointment.]

(2) Any outgoing member <sup>3</sup>[or chairman] of a pancháyát shall, if otherwise qualified, be eligible for re-appointment.

**125.** (1) Any person appointed to be chairman or member of a pancháyát may tender his resignation to the Governor in Council and, on such resignation being accepted, shall be deemed to have vacated his office.

Resignation of pancháyát-dárs.

<sup>4</sup>[(2) Any person holding a salaried office under Government or a local board, who is a member of the pancháyát shall, on being permanently transferred from the local area over which such pancháyát has authority or on quitting such local area with the intention of being absent therefrom for more than three months, or on his resignation, suspension, removal or retirement from his office under Government or the local board, be deemed to have vacated his office of member of such pancháyát.]

Member who is a salaried officer of Government or local board vacates office on transfer, etc.

<sup>1</sup> For list of notifications under this section see Madras List of Local Rules and Orders, Vol. II.

<sup>2</sup> This proviso was added to s. 122 by s. 100 of Mad. Act VI of 1900.

<sup>3</sup> The words "or on the . . . appointed" were omitted, a proviso added to sub-s. (1) and the words "or chairman" inserted in sub-s. (2) by s. 101 of Mad. Act VI of 1900.

<sup>4</sup> Sub-s. (2) was added by s. 102 of Mad. Act VI of 1900.

Removal of  
pancháyát-  
dárs.

**126.** <sup>1</sup> [The Governor in Council may, at any time, by notification, re-move—

- (1) any member of a pancháyát other than an *ex-officio* member, or
- (2) the chairman of a pancháyát,]—

- (i) if he <sup>1</sup> [is absent for more than four months from the local area over which such pancháyát has authority or] refuses to act or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Governor in Council, a defect of character which unfits him to be a chairman or member of a pancháyát ;
- (ii) if he, without excuse sufficient in the opinion of the Governor in Council, neglects for more than three consecutive months to be present at the meetings of the pancháyát ;
- (iii) if his continuance in office is, in the opinion of the Governor in Council, dangerous to the public peace or order <sup>1</sup> [or likely to bring the administration of the pancháyát into contempt].

Re-appoint-  
ment.

(3) The Governor in Council may prescribe a period during which <sup>1</sup> [such chairman or member] so removed shall not be eligible for re-appointment or re-election.

Filling of  
casual  
vacancies.

**127.** When the office of chairman or member of pancháyát becomes vacant, another person shall, unless the Governor in Council otherwise direct, be appointed to be chairman or member of such pancháyát in the same manner in which his predecessor has been appointed.

President,  
taluk board,  
to fill up  
temporary  
vacancies in  
the office of  
chairman.

<sup>2</sup> **127A.** When the place of a chairman falls vacant before another is permanently appointed, the president of the taluk board concerned shall appoint any member of the pancháyát to perform the duties of a chairman until one is permanently appointed. Such member shall for the period during which he exercises the powers of the chairman under this section be styled the "temporary chairman."

Pancháyát to  
be under  
the control  
of taluk  
board.  
Taluk board  
to sue and  
be sued.

**128.** (1) Every pancháyát shall, subject to the provisions of this Act, be the agent and under the control of the taluk board ;

(2) and the taluk board, and not the pancháyát, may sue and be sued in respect of any act or omission of the pancháyát giving rise to a cause of action.

<sup>3</sup> [Provided that, in cases where it may seem desirable, it shall be lawful for the Governor in Council to declare that the powers as regards pancháyáts and their chairmen, conferred by this Act on taluk boards and their

<sup>1</sup> For the original first two lines of sub-s. (1) the present words in square brackets were substituted, certain words were inserted in clauses (i) and (iii), and the words "such chairman or member" substituted for the words "any person," all by s. 103 of Mad. Act VI of 1900; the original sub-s. (2) now becomes sub-s. (2) by implication.

<sup>2</sup> This section was inserted by s. 104 of Mad. Act VI of 1900.

<sup>3</sup> This proviso was added by s. 105 of Mad. Act VI of 1900.



presidents, shall not be exercised by them, but by the district board and its president.]

*Mode of transacting Business.*

**129.** The pancháyát shall provide an office, and shall meet for the transaction of business at least once a month.

Pancháyát office and meetings.  
Who to preside at meetings.

**130.** (1) The chairman shall preside at each meeting, and in his absence the members of the pancháyát shall elect one of their number present at the meeting to preside thereat.

(2) All questions coming before a meeting shall be decided by a majority, and in the case of equality of votes, the chairman or presiding member of the pancháyát shall have a second or casting vote.

Majority to decide questions and casting vote.  
Quorum.

(3) No business shall be transacted at a meeting unless at least one-third of the pancháyátdárs <sup>1</sup> [then on the pancháyát] be present <sup>1</sup> [not being less than three in number.]

**131.** (1) Minutes of the resolutions passed at each meeting shall be recorded in a book kept for the purpose, and shall be signed by the chairman or the member of the pancháyát who presided at the meeting, and shall be open to the inspection of the tax-payers and inhabitants of the union.

Minutes how to be preserved.

(2) Copies of the resolutions of the pancháyát shall be prepared and sent by the chairman within three days after the passing thereof to the president of the taluk board.

Copies to be sent to president of taluk board.

**132.** (1) The resolutions of the pancháyát shall be carried out by the chairman, in whom the entire executive power of the pancháyát shall be vested, and who shall be directly responsible for the due fulfilment of the purposes of this Act.

Chairman to carry out resolutions.

(2) Any chairman, with the previous consent of the pancháyát, may, on his own responsibility, \* \* \*,<sup>2</sup> authorize any member of the pancháyát, by an order in writing, to exercise <sup>2</sup> [for a period not exceeding four months during any one financial year] any of the powers conferred on such chairman by this Act, and may \* \* \* <sup>2</sup> cancel or modify such authority.

**133.** (1) The chairman may, with the approval of the Revenue-officer in charge of the division of the district wherein the union is situated, at any time, by an order in writing, require the karnam of any village comprised in the union to furnish within a reasonable time any statement, account or return in respect of such village required for the purposes of this Act.

Other karnams to do certain duties on the requisition of the chairman.

(2) Every karnam who, without reasonable excuse, omits to obey such order, shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees twenty.

Penalty for neglect or disobedience of such requisition.

<sup>1</sup> These words were inserted by s. 106 of the Madras Local Boards Act Amendment Act, 1900 (Mad Act VI of 1900).

<sup>2</sup> The words "from time to time" and "at any time in like manner" were omitted, and the words in square brackets inserted by s. 107, *ibid.*

*Appointments, etc., of Servants.*

Servants and salaries.

**134.** (1) The pancháyát may at a meeting, subject to the approval of the president of the taluk board, from time to time, fix the number and salaries of the servants necessary for carrying out the purposes of this Act.

Chairman to appoint servants.

(2) <sup>1</sup>[Subject to the approval of the president of the taluk board,] the chairman shall from time to time appoint proper persons to be such servants and <sup>1</sup>[shall] pay them such salaries from the funds at the disposal of the pancháyát; and he may also in cases of emergency employ temporary servants. <sup>1</sup>[Such servants may be transferred by the president of the taluk board, from one union to another under the same taluk board, whenever he considers such a course necessary.]

Chairman may suspend, etc.  
Appeals.

(3) The chairman may from time to time <sup>1</sup>[fine,] suspend or dismiss any servant appointed by him and appoint another person in his place.

(4) Any servant aggrieved by any order passed by the chairman under this section may, within one month from the date of such order, appeal to the president of the taluk board, and the order passed thereon by such president shall be final.

Revision of proceedings by taluk board.

**135.** (1) If on complaint made or by other means the president of the taluk board has reason to consider that any pancháyát <sup>2</sup>[has passed] any resolution, order or proceeding in excess of <sup>2</sup>[its] authority, he may, by notice in writing, call upon the pancháyát to show cause to the satisfaction of the taluk board, within such time as shall be specified in the notice, why such resolution, order or proceeding shall not be set aside.

(2) If the pancháyát <sup>2</sup>[fails] to show such cause, within the time specified, to the satisfaction of the taluk board, the taluk board may, by a resolution passed to that effect at a meeting and supported by not less than one-half of the members for the time being of such board, set aside the resolution, order or proceeding of such pancháyát and may pass such other orders as <sup>2</sup>[it] may deem fit.

Inspectors, etc.

**136.** (1) The taluk board may, from time to time, employ such officers as may be required for the purpose of superintending and inspecting the working of unions within the taluk, or may authorize any officer of Government in that behalf.

Powers of inspectors.

(2) Any officer so employed or authorized may at any time inspect any property, accounts, books and other documents under the control of the pancháyát, and may record such remarks as he may deem necessary for the information of the pancháyát, and shall submit a copy of such remarks for the consideration of the taluk board.

<sup>1</sup> These words in square brackets in sub-sections (2) and (3) were inserted by s. 108 of Mad. Act VI of 1900.

<sup>2</sup> The words "has passed" were substituted for the words "have passed," the word "its" for the word "their;" the word "fails" for the word "fail" and the word "it" at the end of the sub-section for the word "they," by s. 109 of Mad. Act VI of 1900.

**137.** (1) In cases of emergency the Revenue-officer in charge of the division of the district wherein any union is situated, or any person duly authorized in that behalf by the Governor in Council, may provide for the execution of any work or the doing of any act which the pancháyát is empowered to execute or to do, and the immediate execution or the doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing or doing the act shall be paid by the pancháyát. Emergent cases.

(2) If the expense be not so paid, the Revenue-officer may make an order in writing directing the person having custody of the fund at the disposal of the pancháyát to pay the same in priority to any other charges against such fund <sup>1</sup>[except charges for the service of authorized loans]. Such person shall so far as the funds to the credit of the pancháyát admit, be bound to comply with such order.

(3) A report of any action taken under this section shall at once be forwarded by such Revenue-officer or other person to the taluk board and to the pancháyát.

**138.** (1) If at any time it appears to the president of the taluk board, that a pancháyát has made default in performing any duty imposed on <sup>2</sup>[it] by this Act, he may by an order in writing fix a period for the performance of such duty. Cases of default.

(2) If the duty is not performed within the period so fixed, such president may appoint some person to perform it, and may direct that the expense of performing it shall be paid within such time as he may fix to such person by the pancháyát.

(3) If the expense be not so paid, the president of the taluk board may make an order in writing directing the person having custody of the fund at the disposal of the pancháyát to pay the same in priority to any other charges against such fund <sup>1</sup>[except charges for the service of authorized loans]. Such person shall, so far as the funds to the credit of the pancháyát admit, be bound to comply with such order.

#### *Property under the control of the Pancháyát.*

**139.** To enable the pancháyát to carry out the purposes of this Act all public <sup>3</sup>[roads], drains, tanks, wells and other public places in the union, unless specially excepted by the \* \* <sup>3</sup> taluk board, shall be under the control and direction of the pancháyát, and the taluk board may place under the control and direction of the pancháyát any other property or any institution which is under the control of such taluk board. Streets, etc.,  
under control  
of pancháyát.

<sup>1</sup> These words were inserted by s. 110 (a) of Mad. Act VI of 1900.

<sup>2</sup> The word "it" was substituted for the word "them" by s. 110 (b) of Mad. Act VI of 1900.

<sup>3</sup> The word "roads" was substituted for the word "streets," and the words "district or" omitted, by s. 111 of Mad. Act VI of 1900.

*Funds at the disposal of the Pancháyát.*

Funds at the disposal of the union ;

**140.** (1) The proceeds of the house tax <sup>1</sup>[in any union] and of <sup>1</sup>[any fees] levied by the chairman in <sup>1</sup>[such union] under section 57, clauses <sup>1</sup>[(v) and (vi)], shall, subject to the control of the taluk board, be at the disposal of the pancháyát of such union.

how lodged and dealt with.

(2) Such proceeds, together with any other sums placed at the disposal of the pancháyát by the taluk board or otherwise received by the pancháyát, shall be lodged in the nearest Government treasury or, with the approval of the taluk board, with some private bank or banker ; all orders for payments from such fund shall be signed by the chairman, and when so signed shall be paid by such treasury, bank or banker.

*Duties and Responsibilities of Pancháyát.*

Matters to be provided for by pancháyát.

**141.** The pancháyát shall, in the union under <sup>2</sup>[its] authority, subject to such rules as may from time to time be prescribed by the Governor in Council, and so far as the funds at <sup>2</sup>[its] disposal will permit, have the control and administration of, and provide for, the following matters, except such matters as the taluk board may from time to time think fit to retain or take under <sup>2</sup>[its] direct control and administration :—

- <sup>2</sup>[(a) the lighting of the public roads] ;
- (b) cleansing the <sup>2</sup>[public roads], drains, tanks, wells and other public places in the union ;
- <sup>2</sup>[(c) with the sanction of the Governor in Council, the establishment and maintenance of hospitals, dispensaries and schools] ;
- (d) making and repairing the <sup>2</sup>[public roads], and drains in the union ;
- (e) constructing and repairing such tanks and wells and other works as will supply the inhabitants of the union with a sufficient supply of water for domestic use, <sup>2</sup>[and]
- (f) generally doing such things as may be necessary for the preservation of public health.

Institutions and works not provided for in preceding section.

**142.** The taluk board may at any time, with the consent of any pancháyát, transfer to such pancháyát the management of any institution or the execution of any work not provided for in the preceding section, and it shall thereupon be lawful for such pancháyát to undertake the management of such institution or the execution of such work :

Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the pancháyát by the taluk board.

<sup>1</sup> In s. 140 the words "in any union" were inserted, the words "any fees" and "such union" substituted for the words "the fees" and "any union," and the word and figures "(v) and (vi)" substituted for the word and figures "(ii) and (iv)," by s. 112 of Mad. Act VI of 1900.

<sup>2</sup> In s. 141 the word "its" was substituted for the word "their," the words "(i) in all unions" and "(ii) in a major union" omitted, the numbering of the clauses altered, and the clauses re-arranged, the words "public roads" substituted for "village streets," the word "and" added at the end of the newly numbered clause "(c)" and two new clauses "(a) and "(e)" inserted, by s. 113 of Mad. Act VI of 1900.

**143.** The pancháyát and their chairman shall, subject to the control of the taluk board and of <sup>1</sup>[its] president, respectively, have and exercise in the union all the powers conferred on the taluk board and [its] president, respectively, by sections <sup>1</sup>[99, 100, 101] and 117: Powers of chairman.

Provided that all contracts under section 117 shall be made subject to the approval of the pancháyát.

<sup>2</sup>**143A.** (1) The pancháyát may, by notice, require the owner or occupier of any building which in its opinion is in a filthy or unwholesome state, or of any land which is in such state, or which is overgrown with wild prickly-pear, wattle, lantana or noxious vegetation, to cleanse, clear or otherwise put such building or land in a proper state, within a time to be specified in such notice. Pancháyát may direct clearing or cleaning of filthy buildings and lands.

(2) The pancháyát, or any person generally or specially authorized by it in writing in this behalf, may, by notice addressed to the occupier of any such building, direct all or any part thereof to be internally and externally lime-washed or otherwise cleansed in the manner, and within a time, to be specified in such notice. Pancháyát may require occupier of filthy buildings to lime-wash, etc., the same.

<sup>2</sup>**143B.** The pancháyát shall maintain in a cleanly condition all wells, tanks and reservoirs, which are not private property, and may fill them up or drain them when it appears necessary so to do: Provided that no such well, tank or reservoir shall be filled up with any material except building debris or clean soil, gravel or sand. Pancháyát to maintain certain wells, etc., in good order.

## CHAPTER VI.

### MISCELLANEOUS.

<sup>3</sup>**144.** The Governor in Council may, from time to time, frame forms for any proceeding for which he considers that a form should be provided, and make rules <sup>4</sup>[consistent] with this Act— Power of Governor in Council to frame forms and make rules.

- <sup>5</sup>(i) as to the qualifications of electors and of candidates for appointment by election and as to the method and time of election of elective presidents, vice-presidents and members of local boards;
- (ii) as to the qualifications of electors and of candidates for appointment as members of a pancháyát by election and the method and time of appointment of members of a pancháyát by election in regard to the following matters:—

- (a) the division of the union or a part thereof into wards;

<sup>1</sup> The word "its" was substituted for the word "their" and the figures "99, 100, 101" for the word and figures "99 to 101," by s. 114 of Mad. Act VI of 1900.

<sup>2</sup> Sections 143A and 143B were inserted by s. 115 of Mad. Act VI of 1900.

<sup>3</sup> For rules under this section, see Madras List of Local Rules and Orders, Vol. II.

<sup>4</sup> In s. 144 the word "consistent" was substituted for the words "not inconsistent," a paragraph added to clause (iii), and a new clause (vii) inserted, by s. 116 of Mad. Act VI of 1900.

<sup>5</sup> For rules for the election of presidents of taluk boards, see Fort St. George Gazette, 1911, Pt. I, p. 534.

- (b) the number of representatives proper for each ward ;
- (c) the provision, if any, to be made for the special representation of any classes of the community ;
- (d) the registration of electors ;
- (e) the nomination of candidates, the time of election and the mode of recording votes ; and
- (f) any other matters regarding the system of representation and of election :
- (ib) as to the qualifications of members of a pancháyát to be appointed chairman by election and the method and time of appointment of such chairman ;
- (ii) as to the transfer of property, moveable and immoveable, by district boards to taluk boards ;
- (iii) as to the respective duties and responsibilities and mutual relations of district boards, taluk boards and pancháyáts ; <sup>1</sup>[and as to the matters in regard to which, and to what extent, the orders of a taluk board or pancháyát shall be subject to appeal to, or to revision by, the district board or taluk board, as the case may be] ;
- (iv) as to the matters mentioned in sections 95, 122 and 141 ;
- (v) as to the formation of committees and the delegation of powers to such committees ;
- (vi) as to the mode of making contracts and transfers of property by or on behalf of local boards ;
- <sup>1</sup>[(vii) as to the licensing of private vaccinators ;]
- <sup>2</sup>(viii)<sup>3</sup> as to the qualifications of the servants of local boards <sup>2</sup>[and pancháyáts] and the pensions, gratuities and compassionate allowances, if any, payable to such servants, <sup>3</sup>[including proportionate pensions, if any, to servants, of local boards who are appointed to any offices under the Government, payable to such servants on their retirement from the service of the Government in respect of their services as servants of the local board] ;
- <sup>3</sup>(ix) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of local boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned ;
- <sup>3</sup>(x) as to the office or offices through which correspondence of, and with, local boards shall pass ;

<sup>1</sup> See the last footnote.

<sup>2</sup> For rules regarding the establishment of provident funds for the benefit of local fund servants, see Fort St. George Gazette, 1898, Pt. 3A, p. 93.

<sup>3</sup> The original cl. (vii) was renumbered (viii), certain matter was inserted and added to cl. (viii) so renumbered, old cls. (viii) to (xiii) renumbered as (ix) to (xiv), a new cl. (xv) inserted, and the original cl. (xiv) renumbered as cl. (xvi), by s. 116 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

- <sup>1</sup>(xi) as to the accounts to be kept, and as to the manner in which such accounts shall be audited and published ;
- <sup>1</sup>(xii) as to the preparation of estimates of receipts and expenditure, and the authority by whom, and the conditions subject to which, such estimates may be sanctioned ;
- <sup>1</sup>(xiii) as to the returns, statements and reports to be submitted and the authorities, if any, through whom they are to be submitted ;
- <sup>1</sup>(xiv) as to the mode in which Government officers are to advise and assist local boards in carrying out the purposes of this Act ; and
- <sup>1</sup>[(xv) as to the interpellation by members of all or any of the local boards, of the president] ;
- <sup>1</sup>(xvi)<sup>2</sup> generally for the guidance of local boards, their agents and officers and the officers of Government in all matters connected with the carrying out of this Act.

**145.** The Governor in Council shall, before making or altering any rules under section 144, publish, in such manner as may, in his opinion, be sufficient for giving information to persons interested, a draft of the proposed rules or alterations, together with a notice specifying a date at or after which such draft will be taken into consideration, and shall, before making the rules, receive and consider any objection or suggestion which may be made in respect of such draft by any person interested before the date so specified.

**146.** Such rules and all alterations thereof made by the Governor in Council under section 144 shall be published in the local Gazette of the district to which the rules apply in a Vernacular language of the district, and shall not come into operation <sup>3</sup>[unless the Governor in Council shall otherwise for any special reason direct] until three months after they have been so published.

**147.** Such rules and forms shall, until they are cancelled or altered, have the force of law :

\* \* \* \* \*

**148.** (1) The Collector of the district shall annually, at such times as the Governor in Council may fix, render to the district board an estimate of the probable gross receipts and charges of collection of the tax to be collected by him under this Act.

(2) The district board shall render to every taluk board within such district an estimate of the sums to be transferred to such taluk board.

**149.** The Collector of the district shall from time to time cause to be paid to the district fund the net proceeds of the tax collected under the authority conferred on him by this Act.

<sup>1</sup> See the last footnote.

<sup>2</sup> For rules under this clause, see Fort St. George Gazette, 1900, Pt. I, A, pp. 262, 347, 360, 368.

<sup>3</sup> These words were inserted by s. 117 of Mad. Act VI of 1900.

<sup>4</sup> The proviso to s. 147 was repealed by s. 118 of Mad. Act VI of 1900 and is omitted.

Estimate of  
annual  
expenditure.

**150.** (1) Every local board and every pancháyat shall furnish, to such authority as the Governor in Council may direct, an estimate of their probable receipts during the next ensuing <sup>1</sup>[financial year] and \* \* <sup>2</sup> of the probable expenditure proposed to be incurred during such year, and of the items in respect of which it is proposed to incur such expenditure, and may also furnish a supplemental statement providing for any modifications which they may deem it advisable to make in the distribution of the amount to be raised and expended in the <sup>1</sup>[financial year] then current for the purposes of this Act.

Governor in  
Council to  
pass orders  
on estimate.

(2) The Governor in Council or any person authorized by him in that behalf may pass such orders as he may think fit upon any such estimate and statement.

(3) Such orders shall be binding upon the local board and the pancháyát, and shall be carried out by them so far as the means at their disposal may permit.

Submission  
of annual  
reports.

**151.** (1) Every local board and every pancháyát shall furnish to such authority as the Governor in Council may direct an annual report of their proceedings and statements in detail of all the works executed and measures carried out by them, and of all sums received and expended by them.

(2) Such annual report <sup>3</sup>[of a local board] shall be published, in English and in a Vernacular language of the district, in the District Gazette at the cost of the local board concerned.

Government  
officers to  
inspect  
books, etc.

**152.** (1) All schools and other institutions of an educational character, all hospitals, dispensaries and other institutions maintained by <sup>4</sup>[a] local board and all accounts, books, registers, returns, reports, statements and other documents appertaining thereto, shall at all times be open to the inspection of such officers of Government as the Governor in Council may from time to time appoint in that behalf.

Appointment  
of persons to  
superintend  
operations of  
local boards.

(2) The Governor in Council may from time to time appoint such officers as may be required for the purpose of inspecting and superintending the operations of local boards and pancháyáts, <sup>5</sup>[or of any particular local board or boards and pancháyát or pancháyáts] and also such secretaries, clerks and other servants, as may be necessary for the exercise of the powers vested in him by this Act, and may assign to them such salaries, if any, as he shall think reasonable; and the expense incurred by reason of such appointment shall be defrayed in rateable proportions out of the local funds <sup>5</sup>[concerned].

<sup>1</sup> The words "financial year" were substituted for the words "official year" by s. 4 of Mad. Act VI of 1900.

<sup>2</sup> The words "a statement" were omitted by s. 119 of Mad. Act VI of 1900.

<sup>3</sup> These words were inserted by s. 120 of Mad. Act VI of 1900.

<sup>4</sup> The word "a" was substituted for the word "the" by s. 121 of Mad. Act VI of 1900.

<sup>5</sup> The words in square brackets in s. 152 (2) were inserted by s. 121 of Mad. Act VI of 1900.



**152A.** (1) The district board may, from time to time, with the sanction of the Governor in Council, make bye-laws and cancel or alter the same—

District board empowered to make bye-laws.

(i) for the general or special regulation or control of markets, slaughter-houses, cart-stands, burial and burning grounds and offensive trades and all matters connected with conservancy ;

(ii) for regulating the use of public roads and the traffic thereon and for securing cleanliness, safety and order in respect of the same ; and

(iii) for carrying out all the purposes of this Act,

and may affix fines and penalties for the infringement of such bye-laws.

(2) No bye-law shall be repugnant to any law in force, and no fine for any one infringement of a bye-law shall exceed rupees fifty, and in case of a continuing infringement no fine shall exceed rupees ten for every day, after notice from the taluk board, of such infringement.

Infringement of bye-laws.

(3) No bye-law or cancellation or alteration of a bye-law shall have effect until the same has been approved and confirmed by the Governor in Council.

Confirmation of bye-laws.

(4) All bye-laws when they have been duly confirmed shall have the force of law.

Bye-laws to have the force of law.

**153.** Whenever any land is required for the purposes of this Act, the Governor in Council may, at the request of the local board, proceed to acquire it under the provisions of the Land Acquisition Act, <sup>2</sup>[1894] ; and, on payment by such board of the compensation to be awarded under that Act, the land shall vest in such board.

Acquisition of land.

I of 1894.

**154.** [Arrears of taxes under Act IV, 1871.] Rep. by s. 124 of Mad. Act VI of 1900.

**155.** <sup>3</sup>(1) No assessment or demand made, and no charge imposed, under the authority of this Act, shall be impeached or affected by reason of any clerical error or of any mistake (a) in respect of the name, residence, place of business or occupation of any person, or (b) in the description of any property or thing, or (c) in respect of the amount assessed, demanded or charged : Provided that the provisions of this Act have been, in substance and effect, complied with. And no proceedings under this Act shall, for defect in form, be quashed or set aside in any court of justice.

Assessment, etc., not to be impeached if Act substantially complied with.

<sup>3</sup>(2) No suit shall be brought in any court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment or collection of money made under the said authority : Provided that the provisions of this Act have been, in substance and effect, complied with.

No suit for recovery of sums collected.

<sup>1</sup> S. 122 A was inserted by s. 122 of Mad. Act VI of 1900.

<sup>2</sup> The reference to the Land Acquisition Act of 1870 was altered to that of 1894 by s. 123 of Mad. Act VI of 1900.

<sup>3</sup> These two sub-sections were substituted for the original sub ss. (1) and (2) of s. 155 the word "distress" substituted for the word "distress" and certain words inserted in sub-s. (3), by s. 125 of Mad. Act VI of 1900.

Distress-  
notices  
lawful for  
want of  
form.

(3) No <sup>1</sup>[distrain] or sale under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error or defect or want of form in the <sup>1</sup>[bill, notice, schedule, form, summons,] notice of demand, warrant of <sup>1</sup>[distrain], inventory or other proceeding relating thereto; nor shall such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him:

Special  
damage  
actionable.  
Penalty for  
obstructing  
distrainer  
in his duties.

Provided that every person aggrieved by such irregularity may recover satisfaction for any special damage sustained by him.

<sup>2</sup>(4) Whoever obstructs any person in the performance of his duties as a distrainer under this Act, shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees fifty.

No action to  
be brought  
against local  
board or  
pancháyát,  
etc., without  
one month's  
notice.

<sup>3</sup>**156.** (1) No action shall be brought against any local board or pancháyát or against any member or servant of such board or pancháyát or against any person acting under the directions of such local board or pancháyát or of a member or servant of such board or pancháyát, on account of any act done, or purporting to be done, in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, until the expiration of one month next after notice in writing shall have been delivered or left either at the office of the local board or pancháyát or at the place of abode of such member or servant or of such person, explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the intended plaintiff; and, unless such notice be proved to have been so delivered or left, the Court shall find for the defendant.

If tender of  
compensation  
made, award  
to be limited.

(2) If the local board or pancháyát, member or servant or other person to whom notice is given as provided in sub-section (1) shall, before action is commenced, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

Action to  
commence  
within six  
months.

(3) No action such as is described in sub-section (1) shall, unless it is an action for the recovery of immoveable property or for a declaration of title thereto, be commenced otherwise than within six months next after the accrual of the cause of action.

Action not  
to be brought  
against the  
president or  
chairman.

(4) No action shall be brought against the president of a local board or chairman of a pancháyát on account of any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged default on his part in the execution of this Act, if such act was done or if such default was made in good faith; but any such action shall, so far as it is maintainable in a Court, be brought against the local board, except when brought by the

<sup>1</sup> See the last footnote.

<sup>2</sup> Sub-s. (4) was added by s. 125 of Mad. Act VI of 1900.

<sup>3</sup> This section was substituted for the original s. 156 by s. 126 of Mad. Act VI of 1900.

local board or the Secretary of State for India in Council under section 157 on account of anything done by the president or chairman himself.

**157.** Every member of a local board and every pancháyátdár shall be liable for the loss, waste or misapplication of any money or other property belonging to the local board or pancháyát if such loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the local board or by the Secretary of State for India in Council.

Liability of members for loss, waste or misapplication.

**158.** (1) If any member or servant of a local board or of a pancháyát is, otherwise than with the permission in writing of the Collector of the district, directly or indirectly interested in any contract made with such board, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.<sup>1</sup>

Penalty on member or servant being interested in contracts made with board.

(2) No person shall by reason of being a shareholder in, or a member of any \* \* \* \*<sup>2</sup> company be held to be interested in any contract entered into between such company and <sup>2</sup>[the] local board <sup>2</sup>[unless he is a director of such company.]

**159.** The Governor in Council may, by notification, from time to time, authorize any person to exercise any of the powers conferred on the Collector by this Act, and may at any time in like manner modify or cancel such authority.

Delegation of powers of Collector.

**160.** The Governor in Council may, by notification,<sup>3</sup> from time to time authorize any person to exercise any of the powers vested in him by this Act, save and except those mentioned in Chapter I of this Act, and may at any time in like manner modify or cancel such authority.

Delegation of powers of Governor in Council.

**161.** Every notification under this Act shall be published in the official Gazette of the district to which such notification applies, both in English and in a Vernacular language of the district:

Publication of notifications in the District Gazette.

Provided that every notification issued by the Governor in Council shall be published in English in the Fort St. George Gazette.

**162.** No act of a local board, or of any committee, or of any pancháyát, or of any person acting as a president, vice-president, chairman or member, shall be deemed to be invalid by reason only of some defect in the establishment of such local board, committee or pancháyát, or on the ground that any member of such board, committee or pancháyát was disqualified for such office, or by reason of such act having been done during the period of any vacancy in the office of president, chairman, vice-president or member of such board or pancháyát.

Acts of local board, etc., not to be invalidated by informalities.

<sup>1</sup> Printed, General Acts, Vol. I.

<sup>2</sup> The words "incorporated or registered" were omitted, the word "the" substituted for the word "a" and certain words added to sub-s. (2) of s. 158, by s. 127 of Mad. Act VI of 1900.

<sup>3</sup> For notification under s. 160, see Fort St. George Gazette, 1908, Pt. IA, p. 177.

Consequences  
of failure  
to obtain  
license, etc.,  
or of breach  
of same.

**<sup>1</sup> 162A.** If under this Act the license or written permission of a local board or its president is necessary for the doing of any act in respect of any property, moveable or immoveable, public or private, and if such act is done (a) without such license or permission, or (b) in a manner inconsistent with the terms of such license or permission, then—

- (i) the local board may, by notice, require the person doing such act to alter, remove or, as far as practicable, restore to its original state the whole or any part of such property within a time to be specified in such notice; and, further,
- (ii) if no penalty has been specially provided in this Act for doing such act the person so doing it shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees for every such offence.

Failure to  
comply with  
notice.

**<sup>1</sup> 162B.** (1) If a notice has been given under the provisions of this Act to any person requiring him to execute any work in respect of any property, moveable or immoveable, public or private, or to provide or do or refrain from doing anything within a time specified in the notice, and if such person fails to comply with such notice, then—

- (i) the local board or the pancháyát, as the case may be, may cause such work to be executed or such thing to be provided or done, and may recover all reasonable expenses incurred by it on such account from the said person; and, further,
- (ii) if no penalty has been specially provided in this Act for failure to comply with such notice, the said person shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty rupees for every such offence.

(2) The taluk board or pancháyát, as the case may be, in causing, under sub-section (1), any work to be executed or anything to be provided or done, may utilize any materials found on the property concerned or may sell them and apply the sale-proceeds towards the payment of the expenses incurred by it on this account.

General  
penal clause.

**<sup>1</sup> 162C.** Where by this Act, or by any order or notice issued thereunder, the public or any person is required to do or to refrain from doing anything, any person who fails to comply with such requisition shall, if no penalty has been specially provided in this Act for such failure, be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees for every such failure.

Damages  
and expenses  
how to be  
determined.

**<sup>1</sup> 162D.** (1) In all cases where any costs, damages, charges or expenses are by this Act directed to be paid, or a local board or pancháyát is by this Act empowered to recover any costs, damages, charges or expenses, the amount

<sup>1</sup> Ss. 162A to 162D, inclusive, were inserted by s. 128 of the Madras Local Boards Act Amendment Act, 1900 (Mad. Act VI of 1900).

or apportionment thereof shall, in case of dispute, be ascertained and determined by a first or second class Magistrate.

(2) In any case referred to a Magistrate under this section, the Magistrate shall, on the application of either party, summon the other party to appear before him at a time and place to be named in the summons. Method of proceeding before a Magistrate.

(3) Upon the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, the Magistrate may hear and determine the question, and, for that purpose, may examine such parties or any of them and their witnesses on oath or affirmation.

(4) In every such inquiry the Magistrate shall determine the amount of the costs thereof and shall direct by which of the parties they shall be paid.

**163.** (1) Every <sup>1</sup>[bill, form or notice] regarding any valuation, measurement, assessment, tax or any money due in respect of the same or under this Act shall, if practicable, be presented to, or served personally upon, the person to whom the same is addressed, or, if he cannot be found, may be left at his usual or last known place of abode or business with some <sup>1</sup>[adult male member] of his family, servant or agent, or may be sent by registered letter, or may be put upon some conspicuous part of his usual or last known place of abode or business, and shall thereby be deemed to have been duly presented or served. Service of notices.

(2) If the place of abode or business of the owner of any building or land in respect of which a tax is assessed or due, or in respect of which any work has to be executed, is unknown, or if the owner of any building is not resident within the limits of the district, every such <sup>1</sup>[bill, form or notice] shall be deemed to be duly presented or served if delivered to any <sup>1</sup>[adult male occupier] or put upon some conspicuous part of the building or land in respect of which the tax is assessed or due, or in respect of which such work has to be executed.

(3) Every such <sup>1</sup>[bill, form or notice] sent to a person by registered post shall be addressed to his usual or last known place of abode or business, and when so sent shall, unless and until the contrary be proved, be held to have been duly served.

**164.** If any woman, who, according to the customs of the country, does not appear in public, is in the actual occupation of any building or part thereof into which any person, duly authorized in that behalf, has to enter for the purposes of this Act, such person shall inform such woman that she is at liberty to withdraw, and shall, after allowing reasonable time for such woman to withdraw, and giving her every reasonable facility to withdraw, enter such building or part thereof, using at the same time every precaution, consistent with these provisions, to prevent, when necessary, the clandestine removal of property. Entry into zanāna.

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<sup>1</sup> These words were substituted for the original words by s. 129 of Mad. Act VI of 1900.

Illegal collection of taxes or tolls.

### 165. Whoever—

- (i) not being a person appointed or duly authorized to collect any tax, toll, fee or other sum payable under this Act shall levy or demand any such tax, toll, fee or other sum, or
- (ii) shall lawfully demand or take any other or higher tax, toll, fee or other sum than the lawful tax, toll, fee or other sum, or,
- (iii) under colour of this Act, shall seize or sell any property knowing such seizure and sale to be unlawful, or,
- (iv) being entitled to recover from any person any portion of the tax paid by himself under this Act, shall demand or claim any higher portion than he is entitled to recover, or
- (v) shall in any manner unlawfully extort money or any valuable thing from any person under colour of this Act,

shall be deemed to have committed the offence of cheating or extortion, as the case may be, within the meaning of the Indian Penal Code.<sup>1</sup>

XLV of 1860

Offender may be detained in custody or compelled to give security if fine, etc., be not forthwith paid.

**166.** <sup>2</sup>[In case any fine, compensation, penalty or costs imposed or assessed by a Magistrate under or by virtue of this Act or of any bye-law made in pursuance thereof] shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to the warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

If no sufficient distress can be had the offender may be imprisoned.

<sup>3</sup>**166A.** If, upon the return of <sup>3</sup>any warrant of distress under this Act] it shall appear that no sufficient distress can be had whereon to levy such fine <sup>3</sup>[or sum of money] and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the admission of the offender, or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender to prison, there to be simply imprisoned, according to the discretion of the Magistrate, for any term not exceeding one calendar month when the amount of fine <sup>3</sup>[or sum of money] shall not exceed fifty rupees, and for any term not exceeding two calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

4 \* \* \* \* \*

<sup>1</sup> Printed, General Acts, Vol. I.

<sup>2</sup> These words were substituted for the words "Whenever any fine imposed under or by virtue of this Act" by s. 130 of Mad. Act VI of 1900.

<sup>3</sup> The original sub-s. (2) of s. 166 was converted into s. 166A, the words in the first line substituted for the word, "such warrant," and the words "or sum of money" inserted, by s. 130 of Mad. Act VI of 1900.

<sup>4</sup> Sub-s. (3) was omitted by s. 130 of Mad. Act VI of 1900 at the same time that sub-s. (2) of s. 166 became s. 166A.

**167.** Notwithstanding anything hereinbefore contained, the district board of any district having authority over any part of such district where there is no taluk board and the president of such district board shall have the rights, and exercise the powers and perform the duties of a taluk board and of the president thereof, respectively, in such part of the district.

### <sup>1</sup> SCHEDULE A.

(Section 57.)

#### MAXIMUM RATES OF THE TAX ON HOUSES.

On every house classed in the 1st class	.	.	.	.	.
" " 2nd "	.	.	.	.	.
" " 3rd "	.	.	.	.	.
" " 4th "	.	.	.	.	.
" " 5th "	.	.	.	.	.
" " 6th "	.	.	.	.	.
" " 7th "	.	.	.	.	.
" " 8th "	.	.	.	.	.
" " 9th "	.	.	.	.	.

### <sup>1</sup> SCHEDULE B.

(Section 57.)

#### MAXIMUM RATES OF TOLLS PAYABLE ON CARRIAGES, C<sup>c</sup> PASSING ALONG ROADS WITHIN THE D

On every four-wheeled vehicle with springs	.	.	.	.
On every jatka, hackery or cart laden	.	.	.	.
On every jatka, hackery or cart not laden, and every bi	.	.	.	.
On every other vehicle with springs and every palanquin	.	.	.	.
On every buffalo, bull, bullock, cow or ass, laden or ri	.	.	.	.
under thirteen hands	.	.	.	.
On every horse not under thirteen hands	.	.	.	.
On every elephant	.	.	.	.
On every camel	.	.	.	.

*Explanation (1).—*"Laden." An a  
is merely accounted for the purpose o

*Explanation (2).—*"Tolls" are l  
irrespective of the means of tractio  
respect of any vehicle covers the

<sup>1</sup> Schs. A and B were substituted for  
of Mad. Act VI of 1900.

SCHEDULE C.

(Section 81.)

NOTICE OF DEMAND.

Notice that the Chairman of the Union Pancháyát demands from you  
 due from you to the Pancháyát of  
 use in for the year 18 , and that if the  
 not paid into the office of at or if sufficient  
 non-payment is not shown to him or to within  
 from the service of this notice, a Warrant of Distress will be  
 recovery of the same with costs.

(Signature of the Assessor.)

<sup>2</sup> SCHEDULE D.

(Section 81A.)

DISTRAINT-WARRANT.

(the officer charged with the execution of the Warrant.)  
 of has not paid or shown suffi-  
 payment of the sum of rupees due  
 in the margin for the 19, although  
 been duly demanded from the said and fifteen  
 since such demand was made. This is to command you  
 and chattels of the said (or, as the case may  
 be found on the premises referred to) to the amount  
 rupees,  
 or warrant-fee and distraint-fee, making  
 , and such further sum as may be sufficient  
 for keeping and selling such distraint; and  
 for such distraint, the amount due on account  
 to be paid, together with such further sum as  
 charges of taking and keeping such distraint  
 and having paid and deducted out of the  
 account of the said taxes and fees  
 for keeping and selling such distraint, to return  
 the person whom you found in possession  
 of the said distraint cannot be found of

for the word "seven" by s. 133 of Mad.



the goods and chattels of the said \_\_\_\_\_, you are to certify the same  
 to me together with this warrant.

(L.S.)

(Signature or Stamp of the Chairman of the Pancháyat.)

Date \_\_\_\_\_

MADRAS ACT No. VI OF 1884.<sup>1</sup>

[THE MADRAS RIVERS CONSERVANCY ACT, 1884.]

[31st March, 1884; 28th August, 1884.]

An Act to provide for the Conservancy of Rivers in the Madras  
 Presidency.

WHEREAS it is expedient to make provision for the conservancy of rivers Preamble.  
 in the Presidency of Madras; It is hereby enacted as follows:—

1. This Act may be cited as the Madras Rivers Conservancy Act, 1884. Short title.

2. The Governor in Council may from time to time declare, by notifica- Notification  
 tion in the Fort St. George Gazette<sup>2</sup> and in the Gazette of every district in as to the  
 which any part of the river is situated, that the conservancy of any specified conservancy  
 river requires to be provided for in manner prescribed by this Act. of rivers as  
 provided by  
 this Act.

3. The Governor in Council may at the same time direct that a survey Power to  
 be made of such river for the purpose of determining the limits within which direct sur-  
 this Act is to be applied, and that proper charts and registers be prepared of rivers.  
 setting forth the channel and all boundaries and land-marks and all other  
 matters necessary for the purpose of ascertaining such limits.

4. All persons authorised to make a survey under section 3 shall have Powers  
 the like powers to enter upon land and to do all acts necessary for the survey survey  
 as are given in sections 4 and 5 of the Land Acquisition Act, 1870,<sup>3</sup> and sub- office  
 ject to the provisos therein contained. ent  
 and  
 lands.

5. It shall be the duty of the surveyor appointed to make a survey of any survey  
 river to note upon the charts thereof all cultivation existing or ordinarily  
 carried on, and all groynes, buildings, plantations, constructions or obstruc-  
 tions within the surveyed limits of the said river and to prepare a register  
 to be styled the survey-register, containing the above particulars. The surveyor Sur-  
 shall also mark upon the charts the ordinary channel as it exists at the date reg  
 of the survey so far as it can be ascertained.

<sup>1</sup> For Statement of Objects and Reasons, see Fort St. George Gazette, Supplement, dated 5th July, 1881, p. 4; for Report of the Select Committee, see *ibid.*, dated 4th December, 1883, p. 1; for Proceedings in Council, see *ibid.*, Supplement, dated 13th September, 1881, p. 9; *ibid.*, Supplement, dated 3rd July, 1883, p. 26; *ibid.*, 25th March 1884, p. 1.

<sup>2</sup> For notifications under ss. 2 and 3, see Madras List of Local Rules and Orders, Vol. II, Fort St. George Gazette, 1908, Pt. I, p. 275.

<sup>3</sup> See now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

Power to  
appoint  
Conservators  
of Rivers,  
and indicate  
their juris-  
dictions.

**16.** For the purpose of carrying out this Act in respect of any river, the Governor in Council may appoint as many officers as may be deemed necessary, to be styled Conservators of Rivers, and may from time to time define, by order to be notified in the Gazettes of the districts in which any part of such river is situated, the limits of their several jurisdictions.

Such officers shall be liable to removal by order of the Governor in Council.

When notifi-  
cation declar-  
ing Act ap-  
plicable to  
rivers may be  
published

**7.** The charts prepared, as is provided in section 3, shall, when completed, be exhibited for public information at the kachahris of all districts in which any part of the river so surveyed is situated, for a period of not less than ninety days. Any person or persons who may desire to raise objections to the boundaries or land-marks set forth in such charts shall be at liberty, during such period, to forward a statement in writing setting forth his or their objections to the Collector of the district in which the boundaries objected to are situated. At the expiry of such period, the Collector shall forward the said charts, with such statement of objections (if any) and his remarks thereon, to the Governor in Council, who shall then take the same into consideration, and may order such alteration in the said charts, or pass such other order thereon, as to him may seem fit, previous to final approval of the said charts. On such final approval, the Governor in Council may, by notification in the Fort St. George Gazette and in the Gazette of every district in which any part of the river is situated, declare that the provisions of this Act shall apply<sup>2</sup> to the said river within the boundaries and limits prescribed in the said charts.

ver-bed  
fined.

The land within the limits so defined and approved by the Governor in Council shall be deemed to be the river bed, and the limits shall, when necessary, be defined by boundary-stones or other suitable marks to be set up.

only of  
river.

**8.** When the survey-register affecting any portion of a river is completed, it shall be handed over with the charts to the Conservator of Rivers within whose jurisdiction the said portion is situated, and shall form part of the records of his office.

The Conservator shall thereupon furnish to the Collectors of the districts in which any part of such river is situated certified copies of the survey-register and charts.

if  
where

4 for

**9.** Copies of all charts and registers prepared as provided in section 5, as finally approved, shall be deposited in the office of the Collector of the district in which any part of the river so defined is situated, and shall be open to the inspection of the public at all reasonable times.

**10.** The Governor in Council may from time to time, by notification in the Fort St. George Gazette and in the Gazette of every district in which any part of the river is situated, alter, extend or restrict the limits of any such river-bed, and the altered limits shall be marked in the charts and defined in manner prescribed in section 7 :

<sup>1</sup> For notifications under this section, see Madras List of Local Rules and Orders, Vol. II.

<sup>2</sup> The provisions of this Act have been applied to the rivers Kistna and Godavary,—see Fort St. George Gazette, 1894, Pt. I, p. 701, and *ibid.*, 1897, Pt. I, p. 1579.

Provided that no such alteration shall be made until full particulars thereof shall have been publicly exhibited and any objections made thereto disposed of by the Governor in Council as provided for in the said section.

<sup>1</sup> 11. After such surveys shall have been completed and approved and the notification as provided by this Act made by the Governor in Council, land within the limits of a river-bed, as defined in section 7, which has not been cultivated for two years previous to the date on which this Act is applied to the river, shall not, without the previous permission of the Conservator of Rivers in writing, be planted, cultivated or built upon, and it shall not be lawful without such permission to plant, cultivate or build upon, within the limit of a river-bed, any new formation of land.

New cultivation on land in bed of notified rivers prohibited.

Whoever commences or carries on, or attempts to carry on, any plantation, cultivation or construction in contravention of this section and of a notice from the Conservator to desist shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees five hundred, or, in default of payment, to simple imprisonment not exceeding three months for every such offence.

Penalty.

12. The Conservator of Rivers may, with the previous sanction of the Collector of the district, by an order in writing, require any owner or occupier of land usually cultivated, or cultivated with permission under section 11, within such river-bed, to abstain from cultivating such land <sup>2</sup>[should it appear that such cultivation will tend to obstruct or divert the course of the river]; and it shall be the duty of such owner or occupier to act in obedience to such order.

Power to prohibit cultivation.

Whoever fails to comply with any order made by the Conservator of Rivers under this section shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees five hundred, or, in default or payment, to simple imprisonment not exceeding three months for every such offence.

Penalty.

13. (1) Upon a survey being completed and the notification made as provided by this Act, any person intending to make or remove or extend any groyne, building or construction of any kind, or plantation, grasses or trees, within such river-bed shall, one month before beginning so to make, remove or extend, make an application in writing to the Conservator of Rivers for license to make or remove or extend such groyne, building, construction plantation, grasses or trees.

Constructions, plantations, etc., within river-bed without permission prohibited.

(2) The Conservator of Rivers shall, within one month after receiving such application, pass such orders in writing thereon as he may deem fit.

(3) If the Conservator of Rivers does not pass orders in writing within one month after receiving such application, the applicant may proceed to make, remove or extend such groyne, building, construction, plantation, grasses or trees in compliance with the terms of such application.

<sup>1</sup> This section was substituted for the original s. 11 by Mad. Act II of 1885, s. 1, *infra*.

<sup>2</sup> These words were inserted by Mad. Act II of 1885, s. 2.

(4) An appeal from any order passed by the Conservator of Rivers under clause (2) of this section shall lie to the Collector of the district if the same be preferred within sixty days from the date of the receipt of such order.

(5) The appeal shall be in writing and shall set forth concisely the grounds of objection to the decision of the Conservator of Rivers, and shall be heard and disposed of by the Collector of the district.

Penalty.

(6) Whoever does any act prohibited by this section shall be liable on conviction before a Magistrate to a fine not exceeding rupees one thousand or, in default of payment, to simple imprisonment for a period not exceeding six months for every such offence.

Power to direct removal of constructions, plantations, etc.

14. The Conservator of Rivers may, with the previous sanction of the Collector of the district, by an order in writing, require the owner or occupier of any land within any such river-bed to remove any groynes, buildings, constructions, plantations, grasses, trees or other thing upon such land which the said Conservator may deem to be an obstruction to the course of the stream of such river; and it shall be the duty of such owner or occupier to act in compliance with such order within a time to be mentioned in such order:

Provided that, in the case of the removal of any building being so ordered, it shall be open to the owner or other person in charge thereof to appeal, through the Collector of the district, against such order to the Governor in Council within sixty days from the date of the receipt of such order; and in such case the order shall remain in abeyance until such appeal shall have been decided by the Governor in Council.

Notice of every appeal under this section, together with a copy of the petition of appeal, shall be sent by the appellant to the Conservator of Rivers at the time the appeal is sent to the Collector.

Penalty.

Whoever fails to comply with any order issued by the Conservator of Rivers under this section shall be liable, on conviction before a Magistrate, to a fine not exceeding rupees one thousand, or, in default of payment, to simple imprisonment for a period not exceeding six months for every such offence.

Particulars to be set forth in permits, and copies to be furnished to Collector.

15. The writings prescribed in sections 11 and 13, clause (2), shall define and describe the kind and extent of the cultivation and the nature of the works or things authorized to be made or done, and it shall be the duty of the Conservator of Rivers from time to time to record or cause to be recorded the particulars contained in such writings in the survey-register, and in the certified copies thereof in the possession of the Collector.

The Conservator of Rivers shall also furnish the Collector of the district with copies of all orders made by him under sections 12 and 14.

16. Whenever, under sections 11, 12, 13 or 14, the Conservator of Rivers refuses the owner or occupier of any land permission to plant, cultivate or build on any land, or requires him to remove any groynes, buildings, constructions, plantations, grasses, trees or other obstructions or works

<sup>1</sup> This section was substituted for the original s. 16 by Mad. Act II of 1885, s. 3, *infra*.

existing at the time of the survey, or subsequently authorized by the Conservator of Rivers, such owner or occupier shall be entitled to compensation for any damages sustained by him by reason of such requirement or refusal of permission.

**17.** The Conservator of Rivers may do any acts in connection with any river to which this Act has been applied which may appear to him to be necessary to prevent erosion or breach of embankments, encroachments by the stream or danger to life or property, and for such purpose he may alter the course of any such stream :

Power to Conservators to do acts necessary to prevent danger to life or property.

Provided that compensation shall be made to any person who shall sustain any damage by reason of any act authorized by this section.

Compensation for damage sustained by such acts.

The Conservator shall furnish the Collector of the district with a report of every act done by him under this section.

**18.** All or any of the powers conferred upon the Conservator of Rivers by the preceding section may be exercised by such of his subordinates as may be nominated by him :

Delegatic powers conferred on Conservator of Rivers his subordinates.

Provided such nomination be notified in the Gazettes of the district in which any part of the river is situated.

**19.** Any person who obstructs the Conservator of Rivers in doing any act authorized by this Act shall be deemed to have committed the offence described in section 186 of the Indian Penal Code.<sup>1</sup>

Penalty obstruct Conserv

**20.** Conservators of Rivers under this Act shall be deemed and taken to be officers in charge of rivers within the meaning of Act I of 1858 (*An Act to make lawful compulsory labour for the prevention of mischief by inundation, etc.*).

Conserv to be officer in charge river Act 1858

**21.** Whenever the Conservator of Rivers, in accordance with the provisions of this Act, requires the owner or occupier of any land to do any act or to remove any obstruction, and such owner or occupier fails to do what he is required to do within a reasonable specified time, such Conservator may cause such act to be done or obstruction to be removed and charge the expense of such act or removal to such owner or occupier.

Power to Conservator to require owner or occupier to do act or remove obstruction etc.

The expense so incurred by the Conservator of Rivers shall be certified by him to the Collector of the district, who shall recover the same from such owner or occupier in the manner provided by law for the recovery of arrears of land-revenue.

Collector

**22.** The Governor in Council may from time to time make, and when made, alter, add to and repeal, rules not inconsistent with this Act for the prevention of any injury to works constructed upon all rivers or upon any river to which this Act may be applied, and for the prevention of acts or omissions likely to affect injuriously the conservancy of such rivers or river :

Provided that no penalty for any one infringement of any such rules shall exceed rupees fifty.

All rules made under this section shall be published in three successive issues of the Fort St. George Gazette and of the Gazettes of every district in the Presidency in which any part of the river is situated to which such rules relate, and shall not come into operation until one month after such publication.

**23.** All Conservators of Rivers, surveyors and subordinates duly authorized under section 18 of this Act shall be deemed to be public servants within the meaning of the Indian Penal Code.<sup>1</sup>

XLV of  
1860.

**24.** All fines imposed by this Act may be recovered in the manner provided in the Code of Criminal Procedure.<sup>2</sup>

**25.** No suit shall be brought against any Conservator, surveyor or subordinate, or any person acting under his direction, for anything done or intended to be done under this Act until after the expiration of three months next after notice in writing shall have been delivered or left at the office of such Conservator, surveyor, subordinate or person, or at his place of abode, explicitly stating the cause of action and the name and place of abode of the intended plaintiff and of his agent in the cause, if any, and upon the trial of such suit the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and, unless such notice be proved, the Court shall find for the defendant; and every such suit shall be commenced within six months next after the accrual of the cause of action.

If any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

It shall be lawful for the defendant, before issue joined, by leave of the Court in which any suit is pending, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

**26.** Nothing contained in this Act shall be deemed to affect the provisions of the Indian Easements Act (Act V of 1882).<sup>3</sup>

<sup>1</sup> Printed, General Acts, Vol. I.

<sup>2</sup> See now Act V of 1898, General Acts, Vol. V.

<sup>3</sup> Printed, *supra*.